

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : Chapter 11 Case No.
EXTENDED STAY INC., et al., : 09-13764 (JMP)
Debtors. : (Jointly Administered)
-----X

In re : Chapter 11 Case No.
ESH/MSTX GP L.L.C., : 10-10807 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESH/TXGP L.L.C., : 10-10808 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA TXGP L.L.C., : 10-10806 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA P Portfolio TXNC GP L.L.C., : 10-10805 (JMP)
Debtor. :
-----X



**DISCLOSURE STATEMENT FOR THE
DEBTORS' FIRST AMENDED PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: March 5, 2010

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THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN OF REORGANIZATION OF ESA PROPERTIES LLC, ESA 2005 PORTFOLIO LLC, ESA 2005- SAN JOSE LLC, ESA 2005- WALTHAM LLC, ESA ACQUISITION PROPERTIES LLC, ESA ALASKA LLC, ESA CANADA PROPERTIES BORROWER LLC, ESA FL PROPERTIES LLC, ESA MD BORROWER LLC, ESA MN PROPERTIES LLC, ESA P PORTFOLIO LLC, ESA P PORTFOLIO MD BORROWER LLC, ESA P PORTFOLIO PA PROPERTIES LLC, ESA P PORTFOLIO TXNC PROPERTIES LP, ESA PA PROPERTIES LLC, ESA TX PROPERTIES LP, ESH/HOMESTEAD PORTFOLIO LLC, ESH/HV PROPERTIES LLC, ESH/MSTX PROPERTY LP, ESH/TN PROPERTIES LLC, ESH/TX PROPERTIES LP, ESA MD BENEFICIARY LLC, ESA MD PROPERTIES BUSINESS TRUST, ESA P PORTFOLIO MD BENEFICIARY LLC, ESA P PORTFOLIO MD TRUST, ESA CANADA PROPERTIES TRUST, ESA CANADA TRUSTEE INC., ESA CANADA BENEFICIARY INC., ESA UD PROPERTIES LLC, ESA 2007 OPERATING LESSEE, INC., ESA 2005 OPERATING LESSEE INC., ESA OPERATING LESSEE INC., ESA P PORTFOLIO OPERATING LESSEE INC., ESA CANADA OPERATING LESSEE INC., ESA P PORTFOLIO TXNC GP L.L.C., ESA TXGP L.L.C., ESH/MSTX GP L.L.C., ESH/TXGP L.L.C. AND ESH/TN MEMBER INC. AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO SOLICITATION OF VOTES TO ACCEPT THE PLAN MAY BE MADE EXCEPT PURSUANT TO SECTION 1125 OF TITLE 11 OF THE UNITED STATES CODE.

ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN ***IN THEIR ENTIRETY*** BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER FULLY THE RISK FACTORS SET FORTH IN SECTION IX OF THIS DISCLOSURE STATEMENT BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. A COPY OF THE PLAN IS ANNEXED HERETO AS EXHIBIT "A." PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE PLAN AND THIS DISCLOSURE STATEMENT, INCLUDING THE DEFINITIONS OF TERMS CONTAINED IN SUCH DOCUMENTS. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. IN THE EVENT OF ANY CONFLICT BETWEEN THE DESCRIPTION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN WILL GOVERN.

THE DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE UNITED STATES BANKRUPTCY CODE AND RULE 3016(b) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH OTHER NON-BANKRUPTCY LAW.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTORS

OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS AND DEBTORS-IN-POSSESSION IN THESE CHAPTER 11 CASES.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF.

THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE BEST POSSIBLE RESULT FOR ALL HOLDERS OF CLAIMS AND INTERESTS. THE DEBTORS ALSO BELIEVE THAT THE PLAN WILL ENABLE THEM TO REORGANIZE SUCCESSFULLY AND ACCOMPLISH THE OBJECTIVES OF CHAPTER 11 AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTORS AND THEIR CREDITORS.

THE DEBTORS STRONGLY URGE THEIR CREDITORS TO VOTE TO ACCEPT THE PLAN.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AND EQUITY INTERESTS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY HOLDERS OF CLAIMS OR EQUITY INTERESTS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

I.

INTRODUCTION

The Debtors submit this Disclosure Statement pursuant to Section 1125 of Chapter 11 to the holders of Claims, Existing Equity and Other Equity Interests in connection with (i) the solicitation of acceptances of the First Amended Plan of Reorganization (the "**Plan**") filed by the Debtors with the Bankruptcy Court, and (ii) the hearing to consider confirmation of the Plan (the "**Confirmation Hearing**") scheduled for [_____, 2010] at 10:00 a.m. (New York Time).

Annexed as Exhibits to this Disclosure Statement are copies of the following documents:

- (1) The Plan (Exhibit "A");
- (2) Order of the Bankruptcy Court, dated [_____, 2010] (the "**Disclosure Statement Order**"), approving, among other things, this Disclosure Statement and establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan (attached hereto without exhibits) (Exhibit "B");
- (3) The Debtors' Projected Financial Information (Exhibit "C");
- (4) The Debtors' Liquidation Analysis (Exhibit "D");
- (5) Chart of the Debtors' prepetition organizational structure (Exhibit "E");
- (6) Historical Financial Statements (Exhibit "F");
- (7) Chart of the Debtors' post-petition organizational structure as contemplated by the Plan (Exhibit "G"); and
- (8) The Investment and Standby Purchase Agreement (Exhibit "H").

ALL EXHIBITS TO THE DISCLOSURE STATEMENT ARE INCORPORATED INTO AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN.

A Ballot for the acceptance or rejection of the Plan is enclosed with this Disclosure Statement mailed to the holders of Claims that the Debtors believe may be entitled to vote to accept or reject the Plan.

On _____, 2010, after notice and a hearing, the Bankruptcy Court signed the Disclosure Statement Order, approving this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable a hypothetical investor of the relevant classes to make an informed judgment whether to accept or reject the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN.

The Disclosure Statement Order, a copy of which is annexed hereto as Exhibit "B", sets forth in detail, among other things, the deadlines, procedures and instructions for voting to accept or reject

the Plan and for filing objections to confirmation of the Plan, the procedures and instructions for certain elections and rights to be provided to certain creditors, and the record date for voting purposes and the applicable standards for tabulating Ballots. In addition, detailed voting instructions accompany each Ballot. Each holder of a Claim entitled to vote on the Plan should read this Disclosure Statement, the Plan, the Disclosure Statement Order and the instructions accompanying the Ballots in their entirety before voting on the Plan. These documents contain important information concerning the classification of Claims and Equity Interests. No solicitation of votes to accept the Plan may be made except pursuant to Section 1125 of the Bankruptcy Code.

A. HOLDERS OF CLAIMS ENTITLED TO VOTE

Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired and that are not deemed to have rejected a proposed plan are entitled to vote to accept or reject such proposed plan. Classes of claims or equity interests in which the holders are unimpaired under a Chapter 11 plan are deemed to have accepted such plan and are not entitled to vote to accept or reject the plan. For a detailed description of the treatment of Claims and Equity Interests under the Plan, see Section VIII.E of this Disclosure Statement.

Under the Plan, Claims in Class 2 (Mortgage Facility Claim), Class 3 (ESA UD Mortgage Claim), Class 4 (Mortgage Facility Deficiency Claim) and Class 5 (General Unsecured Claims) are impaired and, to the extent Claims in such Classes are Allowed (and with respect to Classes 4 and 5, vote to accept the Plan), the holders of such Claims will receive distributions under the Plan. As a result, holders of Claims in those Classes are entitled to vote to accept or reject the Plan.

Claims in Class 1 (Priority Claims), and Classes 7 to 14 (ESA MD Properties Trust Certificate, ESA MD Borrower Interests, ESA P Portfolio MD Trust Certificate, ESA P Portfolio MD Borrower Interests, ESA Canada Properties Interests, ESA Canada Properties Borrower Interests, ESH/TN Properties L.L.C. Membership Interests and ESH/ESA General Partnership Interests) of the Plan are unimpaired. As a result, holders of Claims in those Classes are conclusively presumed to have accepted the Plan.

The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims that cast ballots for acceptance or rejection of the plan. For a more detailed description of the requirements for confirmation of the Plan, see Section X.B of this Disclosure Statement.

If a Class of Claims entitled to vote on the Plan rejects the Plan, the Debtors reserve the right to amend the Plan or request confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code or both. Section 1129(b) of the Bankruptcy Code permits the confirmation of a plan of reorganization notwithstanding the rejection of such plan by one or more impaired classes of claims or equity interests. Under Section 1129(b), a plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each rejecting class. For a more detailed description of the requirements for confirmation of a nonconsensual plan, see Section X.B of this Disclosure Statement.

Holders of Existing Equity (Class 6) and Other Existing Equity (Class 15) will not receive any distribution under the Plan and are therefore deemed to have rejected the Plan. With respect to the Classes that are deemed to have rejected the Plan, *i.e.*, Classes 6 and 15, the Debtors intend to request confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code.

THE DEBTORS RECOMMEND THAT HOLDERS OF CLAIMS IN CLASS 2 (MORTGAGE FACILITY CLAIM), CLASS 3 (ESA UD MORTGAGE CLAIM), CLASS 4 (MORTGAGE FACILITY DEFICIENCY CLAIM) AND CLASS 5 (GENERAL UNSECURED CLAIMS) VOTE TO ACCEPT THE PLAN.

The Debtors' legal advisor is Weil, Gotshal & Manges LLP, and their restructuring and financial advisor is Lazard. They can be contacted at:

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30 Rockefeller Plaza
New York, New York 10020
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New York, New York 10153
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Tel: (212) 310 8000
Attn: Marcia L. Goldstein, Esq.
Jacqueline Marcus, Esq.

B. VOTING PROCEDURES

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan, and with respect to Class 5, for making certain elections. If you hold Claims in more than one Class and you are entitled to vote Claims in more than one Class, you will receive separate Ballots, which must be used for each separate Class of Claims. Ballots should be returned to the Debtors' solicitation agent in the Chapter 11 Cases at:

Extended Stay Ballot Processing Center
c/o Kurtzman Carson Consultants, LLC
2335 Alaska Avenue
El Segundo, California 90245

Do not return any other documents with your Ballot other than the Rights Certificate in the event you are exercising your Rights and/or the Election Form if you are making an election under the New Unsecured Notes Election. Each Rights Offering Participant subscribing in the Rights Offering shall, pursuant to its exercise of the Rights, agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.

TO BE COUNTED, YOUR BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED BY NO LATER THAN 4:00 P.M. (NEW YORK TIME) ON _____, 2010. ANY EXECUTED BALLOT RECEIVED THAT DOES NOT INDICATE EITHER AN ACCEPTANCE OR A REJECTION OF THE PLAN SHALL BE COUNTED AS AN ACCEPTANCE.

Any Claim in an impaired Class as to which an objection or request for estimation is pending or which is listed on the Schedules as unliquidated, disputed or contingent is not entitled to vote unless the holder of such Claim has obtained an order of the Bankruptcy Court temporarily allowing such Claim for the purpose of voting on the Plan.

Pursuant to the Disclosure Statement Order, the Bankruptcy Court set _____, 2010 as the record date for holders of Claims entitled to vote on the Plan. Accordingly, only holders of record

as of the applicable record date that otherwise are entitled to vote under the Plan will receive a Ballot and may vote on the Plan. In addition, pursuant to the Disclosure Statement Order, the Bankruptcy Court directed the Trustee to assist the Debtors in distributing Rights Certificates and Election Forms to the holders of Certificates entitled thereto under the Plan.

If you are a holder of a Claim entitled to vote on the Plan and you did not receive a Ballot, received a damaged Ballot or lost your Ballot or if you have any questions concerning this Disclosure Statement, the Plan or the procedures for voting on the Plan, please call Kurtzman Carson Consultants, LLC at (866) 381-9100.

C. CONFIRMATION HEARING

Pursuant to Section 1128 of the Bankruptcy Code, the Confirmation Hearing will be held on _____, **2010 at 10:00 a.m. (New York Time)** before the Honorable James M. Peck, Room 601, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton House, One Bowling Green, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan must be served and filed so that they are received on or before _____, **2010 at 4:00 p.m. (New York Time)** in the manner described below in Section X.A of this Disclosure Statement. The Confirmation Hearing may be adjourned from time to time without further notice except for the announcement of the adjourned date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

II.

SUMMARY OF PLAN

Although the Chapter 11 Debtors consist of 75 separate entities, the business that was intended to support this very complex capital structure is conducted primarily by 21 entities that are borrowers under a \$4.1 billion mortgage loan. While the hotel business that formed the base of the capital structure remains fundamentally sound, in the current business environment, the operations of that business are simply insufficient to support the extensive capital structure layered above it. In fact, based on current estimates, the value of the business is less than half of the amount of outstanding debt.

Prior to and since commencing these Chapter 11 Cases, the Debtors have sought a consensual restructuring of their balance sheets so as to be able to emerge from Chapter 11 with an appropriate capital structure and a resolution of their liquidity issues. This would allow the Debtors to provide the best possible recoveries to their creditors and remain competitive in the hotel industry. To that end, the fundamental premise of the Chapter 11 Debtors' negotiations has been a substantial restructuring of their capital structure. Indeed, the Restructuring Term Sheet that was attached to the Declaration of Joseph Teichman pursuant to Rule 100-7 of the Local Bankruptcy Rules for the Southern District of New York in support of First-Day Motions and Applications, which was filed on the Commencement Date, included a dramatic reduction of the Chapter 11 Debtors' indebtedness.

The Debtors' foremost liability consists of the Mortgage Debt in the principal amount of approximately \$4.1 billion. The Mortgage Debt is secured by cross-collateralized and cross-defaulted first priority liens on the Mortgaged Properties, and the other collateral, as set forth in the Loan Documents, including all of the cash proceeds generated from the Mortgaged Properties. As set forth in Article VIII hereof, the going concern value of the Debtors, absent a significant capital infusion, is significantly less than the outstanding amount of Mortgage Debt. The Debtors estimate the enterprise value of their business operations is between \$2.8 and \$3.6 billion. The Debtors' valuation estimates are

based on their own financial projections (as described in Article IX hereof) and work and analysis of Lazard, their financial advisor.

Based on the valuation of the Debtors' estates and their projected cash flows, the Debtors would be unable to reinstate or refinance the Mortgage Debt in full as doing so would leave the Debtors significantly over leveraged and potentially unable to pay the related debt service. Accordingly, the Debtors' initial efforts focused on negotiating a stand-alone chapter 11 plan that would provide the holder of the Mortgage Facility Claim with a recovery consisting of the debt and equity in reorganized Debtors. However, as the Chapter 11 Cases progressed, it became apparent to the Debtors that they required a significant equity infusion in order to ensure that they have adequate cash to fund operations, to pay debt service and make necessary capital expenditures and investments in the Mortgaged Properties and other assets so as to remain competitive in the hotel industry and succeed after emergence from Chapter 11.

Based on this need for additional capital, the Debtors began to explore alternative transactions for restructuring, culminating in the negotiation of an Investment and Standby Purchase Agreement with Centerbridge Partners L.P. ("**Centerbridge**") and Paulson and Co. Inc. ("**Paulson**", and together with Centerbridge, the "**Investors**"), pursuant to which the Investors, through a newly formed limited liability company, InvestorCo, will commit to provide up to \$450,000,000 to a newly formed parent company of the reorganized Debtors, NewCo, to fund the Plan and certain related transactions. As part of this investment, InvestorCo will acquire 22.5% of the NewCo Common Interests for a cash contribution of \$225,000,000. The Investors will also backstop a Rights Offering that will generate additional proceeds of \$225,000,000.

Because the value of the business is less than the amount of the Mortgage Loan secured thereby, the Chapter 11 Debtors effectively have no assets available to make distributions to unsecured creditors of the Mortgage Borrowers, and the equity of the Mortgage Borrowers is insufficient to support any distributions to the entities that own the Mortgage Borrowers. Consequently, the Plan is based on the Debtors' determination that the most appropriate approach is to file a plan of reorganization that deals with the assets and the liabilities of the entities that comprise the operating business. Thus, the Plan deals only with the entities set forth on Exhibit A thereto, thirty nine entities that either are the Mortgage Borrowers that own the respective hotel properties, are operating lessees acting on behalf of such entities, or are general partners, members, or trusts having interests in the Mortgage Borrowers.

Pursuant to the terms of the Plan, the holder of the Mortgage Facility Claim will receive a combination of debt and equity in NewCo, the value of which reflects the enterprise value of the Debtors' estates. Specifically, the Plan provides that the holder of the Mortgage Facility Claim will receive the New Mortgage Notes in the aggregate principal amount of \$2,547,297,223 and NewCo Common Interests representing 55.00% of the issued and outstanding NewCo Common Interests (subject to certain adjustments), with each NewCo Common interest having a stated value of \$1,000. In addition, the holder of the Mortgage Facility Claim will receive 100% of the Rights to be issued pursuant to a Rights Offering for 22.5% of the NewCo Common Interests that will generate proceeds equal to \$225,000,000. Pursuant to the Plan, the Mortgage Borrowers and the other Debtors will be transferred to NewCo. Thus, under the Plan, NewCo will be owned by the Investors, through InvestorCo, and holders of certain classes of Mortgage Certificates, as well as those who participate in the Rights Offering, and NewCo will own and control the Mortgaged Properties and other assets necessary to operate the Debtors' businesses. Although the Plan contemplates that the Trustee or the Special Servicer would exercise voting rights with respect to the Mortgage Facility Claim and the Mortgage Facility Deficiency Claim, the Plan provides a mechanism for the distribution and allocation of the treatment provided on account of the Mortgage Facility Claim to the Certificate Holders. This distribution scheme reflects and respects the relative priorities among the

various classes of Mortgage Certificates and thus provides a fair and equitable distribution of the value of the Debtors' estates to the Certificate Holders.

For the recipients of the NewCo Common Interests that would prefer to receive debt instead of NewCo Common Interests, the Plan also provides for the New Unsecured Notes Election, whereby certain holders who are entitled to receive NewCo Common Interests on account of the Mortgage Facility Claim may elect to receive up to \$225,000,000 in the aggregate of New Unsecured Notes with terms as described in Article VII.

As noted above, the amount of the Mortgage Facility Claim is approximately \$4.1 billion, yet the entire enterprise value of the Debtors' estates is approximately \$3.2 billion. Thus, based on the value of the collateral securing the Mortgage Facility Claim, a portion of the Mortgage Facility Claim is unsecured and the Plan provides for a separate classification for such Mortgage Deficiency Claim. However, also based on the enterprise value of the Debtors' estate, under the absolute priority rule, the holder of the Mortgage Facility Deficiency Claim (as well as the holders of other General Unsecured Claims) are not entitled to a recovery on account of their claims. Rather, the entire stand-alone value of the Debtors' assets is being provided to the holder of the Mortgage Facility Claim on account of its secured claim. Although the holder of the Mortgage Facility Deficiency Claim is not entitled to receive any distribution under the Bankruptcy Code, in order to facilitate a consensual Plan and expeditious exit from chapter 11, and provided that the holder of the Allowed Mortgage Facility Deficiency Claim votes to accept the Plan, the Investors have agreed to allocate value from their Investment, on the terms set forth in the Plan, in order to provide a distribution to the holder of the Mortgage Facility Deficiency Claim. As such, if the holder of the Mortgage Facility Deficiency Claim votes to accept the Plan, the holder of such claim will receive its Pro Rata Share of New A Warrants.

Similar to the unsecured Mortgage Facility Deficiency Claim, based on the enterprise value of the Debtors, under the absolute priority rule, the holders of General Unsecured Claims would not be entitled to a recovery on account of their claims. However, in order to facilitate a consensual Plan and expeditious exit from Chapter 11, and provided that the class of General Unsecured Claims votes to accept that Plan, the Investors have agreed to allocate value from their Investment, on the terms set forth in the Plan, in order to provide a distribution to the holders of General Unsecured Claims. As such, if Class 5 votes to accept the Plan, the holders of General Unsecured Claims will receive their Pro Rata Share of New A Warrants. In addition, given the identity of the creditors in Class 5, the nature and projected amount of their claims, and their potential continuing relationships with NewCo and the reorganized Debtors, the Investors have agreed to allocate a portion of their cash investment to provide a cash-out option to the holders of the General Unsecured Claims. Therefore, under the Plan, if Class 5 votes to accept the Plan, in lieu of receiving the New A Warrants, a holder of a General Unsecured Claim may elect to receive its Pro Rata share of \$500,000, provided such creditor's claim is or has voluntarily been reduced to no more than \$100,000.

In connection with the restructuring, an essential component of the Investors' commitment to fund the Plan and invest in the reorganized Debtors, through InvestorCo, is the assurance that the reorganized Debtors can continue their operations uninterrupted upon emergence from bankruptcy. All of the Mortgaged Properties are managed by HVM, an entity that is affiliated with, but not owned by, the Debtors. HVM Manager, an entity owned by David Lichtenstein, acts as the manager of HVM, with the right and authority to direct the operations of HVM. The ability of HVM to continue the operation of the Mortgaged Properties depends upon the uninterrupted and continued access to the services provided by certain essential service providers to the Mortgaged Properties. Therefore, it is essential to the Investors that HVM continue to provide its management services to the reorganized Debtors. As such, in connection with the Plan and as contemplated by the Investment and Standby

Purchase Agreement, the Investors and the Debtors have entered into the Membership Interest Purchase Agreement with David Lichtenstein, pursuant to which, on the Effective Date, HVM Manager, in exchange for the \$30,000,000 payment (which payment shall be funded out of the proceeds of the Investment), will resign as manager of HVM and appoint NewCo Manager as successor manager of HVM. This acquisition and the related transactions are predicated on and subject to the Plan becoming effective and the implementation of the transactions contemplated by the Plan and the Investment and Standby Purchase Agreement. Thus, as a result of consummation of the transactions described herein, NewCo Manager will become the manager of HVM and HVM will continue to manage the business and properties of the reorganized Debtors pursuant to management agreements as described in Article V hereof.

The Debtors believe that the Plan and related transactions will maximize value for all creditors. In addition, under the Plan, unsecured creditors (including, the Mortgage Facility Deficiency Claim) will have an opportunity to participate in value being contributed by the Investors in order to facilitate a consensual and expeditious reorganization. Therefore, the Debtors believe the Plan will provide the greatest recoveries to all constituents and will ensure the Debtors' successful emergence from Chapter 11.

In the event that the holder of the Mortgage Facility Claim does not share the Debtors' views and Class 2 does not accept the Plan, the Debtors will request that the Bankruptcy Court confirm the Plan pursuant to Section 1129(b) of the Bankruptcy Code. In the event of confirmation pursuant to Section 1129(b) of the Bankruptcy Code, the Plan contemplates an alternate treatment pursuant to which (i) the holder of the Mortgage Facility Claim will receive the New Alternate Note in the aggregate amount not to exceed \$3,200,000,000 and (ii) InvestorCo will acquire 100% of the NewCo Common Interests for a cash contribution of \$320,000,000 and the contribution of the Certificates held by the Investors or InvestorCo. The Debtors believe that such treatment for the Mortgage Facility Claim satisfies the requirements of Section 1129(b) of the Bankruptcy Code, which provides, in relevant part, that a plan is fair and equitable with respect to a secured claim if (i) the holders of such claim retain the liens securing such claims to the extent of the allowed amount of such claim; and (ii) each holder of a claim of such class receives, on account of such claim, deferred cash payments totaling at least the allowed amount of such claim, with a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property. As set forth in the Plan, in the event of confirmation pursuant to Section 1129(b), the holder of the Mortgage Facility Claim will retain its lien on the Mortgaged Properties and any other collateral for the Mortgage Loan. In addition, based on the value of the Mortgaged Properties as discussed in Article VIII hereof, the holder of the Mortgage Facility Claim is receiving, on account of the Mortgage Facility Claim, deferred cash payments totaling at least the value of the Mortgaged Properties. Based on the financial projections and projected cash flow of the reorganized Debtors contained in Article VIII hereof, the New Alternate Note not only reflects the maximum value of the Mortgage Facility lender's interest in the Debtors' interest in the Mortgage Properties, but reflects the maximum leverage that could be sustained and serviced by the reorganized Debtors. Accordingly, the New Alternate Note satisfies the requirements of the Section 1129(b) of the Bankruptcy Code and the Plan may be confirmed pursuant to Section 1129(b) of the Bankruptcy Code.

Accordingly, the Debtors believe that:

- The Plan provides the best available result for the holders of Claims;
- With respect to each Impaired Class of Claims, the distributions under the Plan, if any, are not less than the amounts that would be received if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code; and

- Acceptance of the Plan is in the best interests of Holders of Claims.

If the Plan is confirmed, then the remaining Chapter 11 Debtors, including without limitation, Extended Stay Inc. and Homestead Village L.L.C., would remain as debtors in their pending Chapter 11 Cases, until such Chapter 11 Debtors either file their own reorganization plans, convert their cases to cases under Chapter 7 of the Bankruptcy Code or seek orders dismissing their Chapter 11 Cases.

The following table briefly summarizes the classification and treatment of Administrative Expense Claims, Claims and Equity Interests under the Plan:

<u>Class</u>	<u>Type of Claim or Equity Interest</u>	<u>Treatment</u>	<u>Impaired/Unimpaired</u>	<u>Entitlement to Vote</u>	<u>Approx. Percentage Recovery</u>
1	Priority Claims	Each holder of an Allowed Priority Claim shall be paid the Allowed Amount of its Allowed Priority Claim, in full, in Cash, on the later of the Effective Date and as soon as practicable after the date such Priority Claim becomes Allowed.	Unimpaired	No	100%
2	Mortgage Facility Claim	<p>In the event that Class 2 accepts the Plan, the holder of the Allowed Mortgage Facility Claim shall receive (A) 100% of the Rights, and, on the Initial Distribution Date, (B) 100% of the New Class A1 Mortgage Notes, 100% of the New Class A2 Mortgage Notes, 100% of the New Class A3 Mortgage Notes, 100% of the New Class A4 Mortgage Notes, NewCo Common Interests representing 55.00% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date, but before dilution) and 100% of the New Unsecured Notes.</p> <p>In the event that Class 2 rejects the Plan, the holder of the Allowed Mortgage Facility Claim shall receive, on the Initial Distribution Date, the New Alternate Notes in an aggregate principal amount not to exceed \$3,200,000,000, which represents the value of the collateral securing the Allowed Mortgage Facility Claim, which New Alternative Notes shall bear interest at the rate of up to 5.34% per annum or such lower rate as shall be fixed by the Bankruptcy Court, and shall have a final maturity date that is nine (9) years after the Initial Distribution Date.</p>	Impaired	Yes	100%
3	ESA UD Mortgage Claim	The holder of the Allowed ESA UD Mortgage Claim shall receive on the Distribution Date the New ESA UD Mortgage Note in full settlement, satisfaction, release and discharge of the Allowed ESA UD Mortgage Claim.	Impaired	Yes	58.8%

<u>Class</u>	<u>Type of Claim or Equity Interest</u>	<u>Treatment</u>	<u>Impaired/ Unimpaired</u>	<u>Entitlement to Vote</u>	<u>Approx. Percentage Recovery</u>
4	Mortgage Facility Deficiency Claim	No distribution shall be made under the Plan in respect of the Mortgage Facility Deficiency Claim; <i>provided</i> , however, that in order to facilitate a consensual Plan, if Class 4 votes to accept the Plan, Class 4 shall receive its Pro Rata Share of the New A Warrants. For purposes of calculating Pro Rata Share under the Plan, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.	Impaired	Yes	2.1% if the Plan is accepted, otherwise 0%
5	General Unsecured Claims	No distribution shall be made under the Plan in respect of the General Unsecured Claims; <i>provided</i> , however, that in order to facilitate a consensual Plan, if Class 5 accepts the Plan, each holder of a General Unsecured Claim shall receive, at its election, either (i) its Pro Rata Share of New A Warrants, or (ii) if its claim is \$100,000 or less, or it elects to reduce its claim to \$100,000, its Pro Rata Share of the Cash Distribution ; <i>provided</i> , however, that if Class 4 accepts the Plan, all holders of General Unsecured Claims shall be deemed to have elected the Cash option. For purposes of calculating Pro Rata Share under the Plan, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.	Impaired	Yes	89.3% if the Plan is accepted, otherwise 0%
6	Existing Equity	No distribution shall be made under the Plan from the Estates in respect of the Existing Equity. On the Effective Date, the certificates that previously evidenced ownership of Existing Equity shall be cancelled and shall be null and void, the holder(s) thereof shall no longer have any rights in respect of the Existing Equity, and such certificates shall not evidence any rights under the Plan.	Impaired	No	0%
7	ESA MD Properties Trust Certificate	The holder of the ESA MD Properties Trust Certificate shall retain the ESA MD Properties Trust Certificate.	Unimpaired	No	100%

<u>Class</u>	<u>Type of Claim or Equity Interest</u>	<u>Treatment</u>	<u>Impaired/ Unimpaired</u>	<u>Entitlement to Vote</u>	<u>Approx. Percentage Recovery</u>
8	ESA MD Borrower Interests	Each holder of ESA MD Borrower Interests shall retain its ESA MD Borrower Interests.	Unimpaired	No	100%
9	ESA P Portfolio MD Trust Certificate	The holder of the ESA P MD Portfolio Trust Certificate shall retain the ESA P Portfolio Trust Certificate.	Unimpaired	No	100%
10	ESA P Portfolio MD Borrower Interests	Each holder of ESA P Portfolio MD Borrower Interests shall retain its ESA P Portfolio MD Borrower Interests.	Unimpaired	No	100%
11	ESA Canada Properties Interests	Each holder of ESA Canada Properties Interests shall retain its ESA Canada Properties Interests.	Unimpaired	No	100%
12	ESA Canada Properties Borrower Interests	Each holder of ESA Canada Properties Borrower Interests shall retain its ESA Canada Properties Borrower Interests.	Unimpaired	No	100%
13	ESH/TN Properties Membership Interests	The holder of the ESH/TN Properties Membership Interest shall retain its ESH/TN Properties Membership Interest.	Unimpaired	No	100%
14	ESH/ESA General Partnership Interests	Each holder of ESH/ESA General Partnership Interests shall retain its ESH/ESA General Partnership Interests.	Unimpaired	No	100%
15	Other Existing Equity	No distribution shall be made under the Plan from the Estates in respect of the Other Existing Equity. On the Effective Date, the certificates that previously evidenced ownership of the Other Existing Equity shall be cancelled and shall be null and void, the holders thereof shall no longer have any rights in respect of the Other Existing Equity, and such certificates shall not evidence any rights under the Plan.	Impaired	No	0%

The preceding summaries of the material provisions of the Plan do not purport to be complete and are qualified in their entirety by reference to all of the provisions of the Plan, including all Exhibits thereto and the Plan Supplement, all documents described therein and the definitions therein of certain terms used above. For a more detailed description of the Plan, see Article VII. For detailed historical and projected financial information and valuation estimates, see Article VIII.

III.

DEFINITIONS

A. Defined Terms. As used herein, the following terms shall have the respective meanings specified below. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Plan.

1145 Securities has the meaning set forth in Section VII.G.b of this Disclosure Statement.

Acquisition has the meaning set forth in Section VI.B of this Disclosure Statement.

Adequate Protection Obligations has the meaning set forth in Section VI.B.1 of this Disclosure Statement.

Adequate Protection Payments has the meaning set forth in the Cash Collateral Order.

Adjusted EBITDA has the meaning set forth in Section VIII.C of this Disclosure Statement.

ADR has the meaning set forth in Section VIII.A of this Disclosure Statement.

AHYDOs has the meaning set forth in Section XII.C of this Disclosure Statement.

Alternate Transaction means any solicitation, discussions and negotiations with respect to any plan, proposal, offer, financing or transaction with parties other than the Investors.

AMT has the meaning set forth in Section XII.A of this Disclosure Statement.

Approval Motion has the meaning set forth in Section V.C of this Disclosure Statement.

Assumed Confirmation Date has the meaning set forth in Section VIII.C of this Disclosure Statement.

Arbor means Arbor Realty Trust.

Available Cash has the meaning ascribed to such term in the Final Order (A) Authorizing the Use of Cash Collateral, (B) Granting Adequate Protection and (C) Modifying the Automatic Stay, entered on July 23, 2009 and amended on December 15, 2009, Docket Nos. 205 and 634, respectively.

B of A means Bank of America, N. A.

B of A Action has the meaning set forth in Section VI.F of this Disclosure Statement.

B of A Defendants has the meaning set forth in Section VI.F of this Disclosure Statement.

B of A Mortgage Debt has the meaning set forth in Section IV.D of this Disclosure Statement.

B of A Mortgage Loan Agreement has the meaning set forth in Section IV.D of this Disclosure Statement.

B of A Plaintiffs has the meaning set forth in Section VI.F of this Disclosure Statement.

B of A Prepetition Collateral has the meaning set forth in Section IV.D of this Disclosure Statement.

Bar Date has the meaning set forth in Section VI.D of this Disclosure Statement.

Bear Stearns means Bear Stearns Commercial Mortgage, Inc.

Best Interests Test has the meaning set forth in Section X.B.1 of this Disclosure Statement.

BHAC IP Transfer Agreement has the meaning set forth in Section VII.G of this Disclosure Statement.

Blackstone means The Blackstone Group, L.P., a Delaware limited partnership.

Budget has the meaning set forth in Section VI.B.1 of this Disclosure Statement.

Business Plan has the meaning set forth in Section VI.G of this Disclosure Statement.

Cash Collateral Motion has the meaning set forth in Section VI.B.1 of this Disclosure Statement.

Cash Management Account has the meaning set forth in the Cash Management Agreement.

Cash Management Agreement means that certain agreement between, the Mortgage Borrowers, the Maryland Owner, the Canadian Owner, the Operating Lessee, HVM, Homestead, Wachovia, Bear Stearns and B of A (and their respective successors and assigns), dated as of June 11, 2007, as it may have been amended, restated, replaced, supplemented or otherwise modified from time to time.

Cash Management Order has the meaning set forth in Section VI.A.3 of this Disclosure Statement.

Centerbridge has the meaning set forth in Section II of this Disclosure Statement.

Certificate Holders has the meaning set forth in Section IV.D.2 of this Disclosure Statement.

Change in Control Agreements those change in control letter agreements dated as of September 30, 2008 between HVM and each of Kevin McDougall, Joseph Rogers, Robert Micklash, Daehum Kim and Gary DeLapp.

Change of Recommendation means, (i) the Debtors or their boards of directors or other governing body or any committee thereof shall have withheld, withdrawn, qualified or modified (or resolved or proposed to withhold, withdraw, qualify or modify), in a manner adverse to the Investors, its

approval or recommendation of the Plan or the transactions contemplated thereby or (ii) the Debtors or their boards of directors or other governing body or any committee thereof shall have approved or recommended, or proposed to approve or recommend (including, without limitation, by filing any pleading or document with the Bankruptcy Court), any Alternate Transaction.

Chapter 7 means chapter 7 of the Bankruptcy Code.

Chapter 11 means chapter 11 of the Bankruptcy Code.

Chapter 11 Debtors has the meaning set forth in Section VI of this Disclosure Statement.

COD has the meaning set forth in Section XII of this Disclosure Statement.

Commitment Payment has the meaning set forth in Section VII.G. of this Disclosure Statement.

Confirmation Hearing has the meaning set forth in Section III of this Disclosure Statement.

Critical Employees has the meaning set forth in Section VI.G of this Disclosure Statement.

Critical Operating Expenses has the meaning set forth in Section VI.A.4 of this Disclosure Statement.

DCF has the meaning set forth in Section VIII.C of this Disclosure Statement.

Debt Yield Covenant has the meaning set forth in Section V.A of this Disclosure Statement.

Deferred Adequate Protection Amount has the meaning set forth in Section VI.B.2 of this Disclosure Statement.

Discount Rate has the meaning set forth in Section VIII.C of this Disclosure Statement.

Disclosure Statement Order has the meaning set forth in Section III of this Disclosure Statement.

Disregarded Debtors has the meaning set forth in Section XII of this Disclosure Statement.

Distributable Equity Value has the meaning set forth in Section VIII.C.2 of this Disclosure Statement.

District Court has the meaning set forth in Section VI.F of this Disclosure Statement.

DL-DW means DL-DW Holdings LLC.

EBITDA has the meaning set forth in Section VIII.C of this Disclosure Statement.

Enterprise Value has the meaning set forth in Section VIII.C of this Disclosure Statement.

ESA Mezz Entities means those entities set forth on Exhibit I hereto.

ESA P Mezz Entities means those entities set forth on Exhibit J hereto..

ESH/TN has the meaning set forth in Section XII.A of this Disclosure Statement.

ESI means Extended Stay Inc., a Delaware corporation.

Examiner has the meaning set forth in Section VI.E of this Disclosure Statement.

Examiner Motion has the meaning set forth in Section VII.E of this Disclosure Statement.

Examiner Order has the meaning set forth in Section VII.E of this Disclosure Statement.

Extended Stay means collectively, the debtors that are the subject of the Chapter 11 Cases.

Extended Stay DIP Lockbox has the meaning set forth in Section VI.A.3 of this Disclosure Statement.

First Day Declaration means the Declaration of Joseph Teichman Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York in Support of First-Day Motions and Applications.

Financial Projections has the meaning set forth in Section VIII.B.2 of this Disclosure Statement.

Five Mile Action has the meaning set forth in Section VI.F of this Disclosure Statement.

Five Mile Defendants has the meaning set forth in Section VI.F of this Disclosure Statement.

Five Mile Plaintiff has the meaning set forth in Section VI.F of this Disclosure Statement.

Guarantor has the meaning set forth in Section IV.D.1 of this Disclosure Statement.

Homestead means Homestead Village LLC, a Delaware limited liability company, and one of the Chapter 11 Debtors.

Homestead Licensees has the meaning set forth in Section IV.B of this Disclosure Statement.

Homestead Mezz Entities means those entities set forth on Exhibit K hereto.

HVM Canada means HVM Canada Hotel Management ULC.

HVM Incentive Program Motion has the meaning set forth in Section VII.G of this Disclosure Statement.

HVM Manager Agreement has the meaning set forth in Section VII.G of this Disclosure Statement.

Intercreditor Agreement means the Intercreditor Agreement dated as of June 11, 2007 among the Mortgage Lenders and the Mezzanine Lenders.

InvestorCo means a newly formed Delaware limited liability company or alternate corporate form or other organizational entity that may be selected by the Investors, whose membership interests are directly or indirectly held and controlled by the Investors.

Investors has the meaning set forth in Section II of this Disclosure Statement.

Investor Securities has the meaning set forth in Section VII.G of this Disclosure Statement.

IRS has the meaning set forth in Section XII of this Disclosure Statement.

Lazard means Lazard Freres & Co. LLC.

Letter Agreements has the meaning set forth in Section VI.G of this Disclosure Statement.

Lichtenstein means David Lichtenstein.

Lightstone means Lightstone Holdings LLC, a Delaware limited liability company.

Line Trust Action has the meaning set forth in Section VI.F of this Disclosure Statement.

Line Trust Defendants has the meaning set forth in Section VI.F of this Disclosure Statement.

Line Trust Plaintiffs has the meaning set forth in Section VI.F of this Disclosure Statement.

Liquidation Analysis has the meaning set forth in Section X.B.1 of this Disclosure Statement.

Loan Documents means collectively, the Mortgage Loan Agreement, the Note, the Security Instruments, the Environmental Indemnity, the Assignment of Management Agreement, the Assignment of Franchise Agreement, the Subordination of ESA Note, the Guaranty, the Cash Management Agreement, the Interest Rate Cap Agreement, the Assignments of Interest Rate Cap Agreement, the Contribution Agreement, the Canadian Indemnity Guaranty, the Maryland Indemnity Guaranty, the Assignment of ESA Note, the Subordination of Aristocrat Notes, the Maryland Beneficiary Pledge Agreement, the Canadian Beneficiary Pledge Agreement, the Security Account Control Agreement, the Trademark Security Agreement (all as defined in the Mortgage Loan Agreement) and all other documents executed and/or delivered in connection with the Mortgage Loan, in each case, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

LT has the meaning set forth in Section VIII.A of this Disclosure Statement.

M & T Indenture means the Indenture, dated as of June 27, 2001 between Manufacturers and Traders Trust Company, as trustee, and ESI, as same may be amended, modified or supplemented from time to time.

Maryland Owner means ESA P Portfolio MD Trust and ESA MD Properties Business Trust.

Mezzanine Borrowers means the borrowers under the Mezzanine Loan Agreements.

Mezzanine Debt has the meaning set forth in Section IV. of this Disclosure Statement.

Mezzanine Lenders means Wachovia, Bear Stearns and B of A, as lenders, together with their successors and assigns.

Mezzanine Loan Agreements means collectively, the ten mezzanine loan agreements among the Mezzanine Lenders and the Mezzanine Borrowers.

Modification has the meaning set forth in Section VI.B.2 of this Disclosure Statement.

Money Equity Value has the meaning set forth in Section VIII.C of this Disclosure Statement.

Mortgage Borrowers means ESA 2005 Portfolio L.L.C., ESA 2005- San Jose L.L.C., ESA 2005- Waltham L.L.C., ESA Acquisition Properties L.L.C., ESA Alaska L.L.C., ESA Canada Properties Borrower L.L.C., ESA FL Properties L.L.C., ESA MD Borrower L.L.C., ESA MN Properties L.L.C., ESA P Portfolio L.L.C., ESA P Portfolio MD Borrower L.L.C., ESA P Portfolio PA Properties L.L.C., ESA P Portfolio TXNC Properties L.P., ESA PA Properties L.L.C., ESA Properties L.L.C., ESA TX Properties L.P., ESH/Homestead Portfolio L.L.C., ESH/HV Properties L.L.C., ESH/MSTX Property L.P., ESH/TN Properties L.L.C. and ESH/TX Properties L.P.

Mortgage Debt has the meaning set forth in Section IV.D of this Disclosure Statement.

Mortgage Debt Parties has the meaning set forth in Section IV.D.2 of this Disclosure Statement.

Mortgage Lenders means Wachovia, Bear Stearns and B of A, as lenders together with their successors and assigns.

Mortgage Loan Agreement means the Loan Agreement dated as of June 11, 2007 (as amended, restated, replaced, supplemented or otherwise modified from time to time), by and among the Mortgage Borrowers, the Maryland Owner, the Operating Lessee and the Mortgage Lenders.

Mortgaged Properties has the meaning set forth in Section IV.D.1 of this Disclosure Statement.

New B Securities has the meaning set forth in Section VII.G of this Disclosure Statement.

New Collateral has the meaning set forth in Section VII.G of this Disclosure Statement.

New Guarantors has the meaning set forth in Section VII.F of this Disclosure Statement.

New Mortgage Loan has the meaning set forth in Section VII.G of this Disclosure Statement.

New Warrants has the meaning set forth in Section VII.F of this Disclosure Statement.

NOL has the meaning set forth in Section XII.A of this Disclosure Statement.

NYF has the meaning set forth in Section VIII.C of this Disclosure Statement.

Operating Lessee means ESA Canada Trustee, Inc., ESA Canada Properties Trust, ESA P Portfolio Operating Lessee Inc., ESA 2005 Operating Lessee Inc., ESA Canada Operating Lessee Inc., and ESA Operating Lessee Inc.

Original Debtor has the meaning set forth in Section VI of this Disclosure Statement.

Paulson has the meaning set forth in Section II of this Disclosure Statement.

Payment Date has the meaning set forth in Section VI.B.2 of this Disclosure Statement.

Peer Group has the meaning set forth in Section VIII.C of this Disclosure Statement.

Plan has the meaning set forth in Section I of this Disclosure Statement.

Post-Money Equity Value has the meaning set forth in Section VIII.C of this Disclosure Statement.

PPK has the meaning set forth in Section VIII.C of this Disclosure Statement.

pre-change losses has the meaning set forth in Section XII.A of this Disclosure Statement.

Prepetition Collateral means the collateral set forth in the Loan Documents.

Projections has the meaning set forth in Section VIII.C of this Disclosure Statement.

RBP 4 has the meaning set forth in Section VIII.C of this Disclosure Statement.

Regarded Corporate Debtors has the meaning set forth in Section XII of this Disclosure Statement.

Regarded Debtors has the meaning set forth in Section XII of this Disclosure Statement.

REIT means real estate investment trust within the meaning of Section 856 of the Tax Code.

Remaining Payments has the meaning set forth in Section VI.G of this Disclosure Statement.

Reorganization Value has the meaning set forth in Section VIII.C.1 of this Disclosure Statement.

Reorganized Asset Value has the meaning set forth in Section VIII.C.1 of this Disclosure Statement.

Restricted Holders has the meaning set forth in Section VIII.F.2.b of this Disclosure Statement.

Restructuring Term Sheet has the meaning set forth in Section VII.A of this Disclosure Statement.

Revised HVM Incentive Program has the meaning set forth in Section VII.G of this Disclosure Statement.

RevPAR has the meaning set forth in Section VIII.A of this Disclosure Statement.

Rights means the rights distributed to Rights Holders pursuant to the Plan.

Rule 2015.3 Report has the meaning set forth in Section VI.D of this Disclosure Statement.

Schedules has the meaning set forth in Section VI.D of this Disclosure Statement.

Senior Executives has the meaning set forth in Section VI.G of this Disclosure Statement.

Senior Subordinated Notes has the meaning set forth in Section IV.D.6 of this Disclosure Statement.

Solicitation Order has the meaning set forth in Section VII.G of this Disclosure Statement.

SPE Entities has the meaning set forth in Section V.B of this Disclosure Statement.

State Court has the meaning set forth in Section VII.F of this Disclosure Statement.

Successor Trustee has the meaning set forth in Section IV.D.2 of this Disclosure Statement.

Subsequent Debtors has the meaning set forth in Section VI of this Disclosure Statement.

Tax Code has the meaning set forth in Section XII of this Disclosure Statement.

Tax Matters Partner has the meaning set forth in Section XII.C of this Disclosure Statement.

Testing Period has the meaning set forth in Section XII of this Disclosure Statement.

TIN has the meaning set forth in Section XII.E of this Disclosure Statement.

Transaction Value has the meaning set forth in Section VIII.C of this Disclosure Statement.

TRS has the meaning set forth in Section VII.G of this Disclosure Statement.

Trust has the meaning set forth in Section IV.D.2 of this Disclosure Statement.

Trust and Servicing Agreement has the meaning set forth in Section IV.D.2 of this Disclosure Statement.

UD Debtors has the meaning set forth in Section IV.D of this Disclosure Statement.

U.S. Trustee has the meaning set forth in Section VI.C of this Disclosure Statement.

Valuation Metrics has the meaning set forth in Section VIII.C of this Disclosure Statement.

Wachovia means Wachovia Bank, N.A.

Warrant Agent has the meaning set forth in Section VII.G of this Disclosure Statement.

B. Other Terms. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, the feminine, and the neuter.

C. Exhibits. All exhibits to the Disclosure Statement are annexed hereto.

IV. GENERAL INFORMATION

A. OVERVIEW OF CHAPTER 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of itself, its creditors and its equity interest holders. In addition to permitting the rehabilitation of a debtor, another goal of Chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated equity interest holders with respect to the distribution of a debtor's assets. The commencement of a Chapter 11 reorganization case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the Commencement Date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession".

The consummation of a plan of reorganization is the principal objective of a Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying claims against, and interests in, a debtor. Confirmation of a plan of reorganization by the bankruptcy court binds the debtor, any issuer of securities under the plan, any person acquiring property under the plan and any creditor or equity interest holder of a debtor. Subject to certain limited exceptions, the order approving confirmation of a plan discharges a debtor from any debt that arose prior to the date of confirmation of the plan and substitutes therefor the obligations specified under the confirmed plan.

Certain holders of claims against a debtor are permitted to vote to accept or reject a plan of reorganization. Prior to soliciting acceptances of a proposed plan, however, Section 1125 of the Bankruptcy Code requires a debtor to prepare, and obtain bankruptcy court approval of, a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable hypothetical investors of the relevant classes to make an informed judgment regarding the plan. The Debtors are submitting this Disclosure Statement to holders of Claims against the Debtors to satisfy the requirements of Section 1125 of the Bankruptcy Code.

B. CORPORATE STRUCTURE

The Debtors are the entities that own and operate a portfolio of 666 hotels and one office building.

The chart attached hereto as Exhibit E illustrates that Extended Stay is organized into two segments, operating under different trademarks. In the ESI segment, non-debtor BHAC owns 100% of the common stock of ESI, which indirectly owns and operates 552 properties using the Extended Stay Hotels service mark, as well as the office building. BHAC owns the trademarks for the Extended Stay America, Studio Plus, Crossland, and Extended Stay Deluxe brands, along with minor variations of those names, and licenses such trademarks to certain of the Debtors (the "***BHAC Licensees***") under a non-exclusive license agreement that expires in 2025 and entitles BHAC to a licensing fee of 0.2% of the BHAC Licensees' gross operating revenues. ESI currently has approximately 90 preferred stock investors. In the Homestead segment, non-debtor DL-DW owns Homestead. The Homestead segment owns and operates 114 hotels under the Homestead Studio Suites brand name, along with minor variations of that name, and operates one hotel in a non-debtor subsidiary under a short-term lease. Homestead also owns the trademarks associated with such brand names and licenses such trademarks to certain of the Debtors (the "***Homestead Licensees***") under a non-exclusive license agreement that expires in 2025 and entitles Homestead to a license fee of 0.2% of the Homestead Licensees gross operating revenues.

The Homestead segment and the ESI segment are connected through a common owner, DL-DW, which was formed in June 2007, by an investment consortium consisting of, among others, Lichtenstein and Arbor, for the purpose of the acquisition of the combined business (the “*Acquisition*”), which included the hotels, the headquarters, and all of the Extended Stay brands from Blackstone. As a result of the Acquisition, Lichtenstein and other parties own DL-DW, which, together with those other parties, directly or indirectly owns 100% of the interests in ESI and Homestead. Specifically, (a) Lightstone, together with BRE/ESH Holding LLC (an entity holding the residual investments of Blackstone) and other affiliates, owns DL-DW, which in turn owns Homestead, and (b) Homestead and affiliates of Lightstone and Arbor own BHAC, which in turn owns ESI.

There are numerous special purpose entity subsidiaries owned by ESI and Homestead that own, either directly or indirectly, through lease or title, interests in the applicable hotel properties. Among such entities are ten levels of mezzanine entities, each of which was formed in association with the financing of the Acquisition, and each of which pledged its security interest in the equity of the entity beneath it to the Mezz Lenders; thus each mezzanine entity is the sole equity member of the mezzanine entity directly beneath it. In order to implement the mezzanine financing, two branches were established beneath ESI, the ESA Mezz Entities and the ESA P Mezz Entities. Similarly, the Homestead Mezz Entities were established beneath Homestead. In this fashion, (i) the ESA P Mezz Entities own, directly or indirectly, all of the equity interests in the ESA P special purpose entities, (ii) the ESA Mezz Entities own, directly or indirectly, all of the equity interests in the ESA Mezz special purpose entities, and (iii) the Homestead Mezz Entities own, directly or indirectly, all of the equity interests in the Homestead special purpose entities. The Debtors are special purpose entities that are either directly or indirectly owned by the lowest tier Mezzanine Borrowers. The Debtors own and operate the substantial majority of the properties in the Extended Stay family.

C. BUSINESS BACKGROUND

1. General

Extended Stay maintains its corporate headquarters in Spartanburg, South Carolina, and its properties extend across 44 states and 2 provinces in Canada. All of the Debtors are incorporated in Delaware, with the exception of ESA Canada Operating Lessee Inc., which was incorporated in Canada.

2. Description of the Debtors’ Business

Extended Stay operates in the extended-stay segment of the U.S. lodging industry (an extended-stay is defined as a stay of seven consecutive nights or longer). Extended Stay’s hotels are a hybrid between a hotel and an apartment, providing value-conscious guests seeking longer-term accommodations with an affordable and attractive alternative to traditional hotels and apartments. The typical Extended Stay guest requires accommodations for significantly longer than is economical for a limited or full service hotel, but not long enough to justify incurring the expense and commitment associated with renting an apartment. Extended Stay achieves lower operating costs than traditional hotels by eliminating certain services in exchange for a lower per night price while also providing amenities such as an in-room kitchen, cable, housekeeping and laundry services.

Extended Stay believes that the extended-stay market can be divided into four general sectors: (i) the upscale sector; (ii) the mid-priced sector; (iii) the economy sector; and (iv) the budget sector. Extended Stay is the largest owner and operator of mid-price extended stay hotels in the United States. These hotels generally operate at average daily rates between \$30 and \$70.

Extended Stay's carefully designed lodging accommodations primarily target business travelers on temporary assignment, undergoing relocation or in training, individuals relocating or purchasing a home, people with domestic situations and individuals with other short-term housing needs.

As a result of acquisitions and mergers, Extended Stay has a portfolio of approximately 666 properties and approximately 73,700 units. Extended Stay has fee ownership in substantially all of its properties with no third-party owners or franchisees. Extended Stay's properties are strategically proximate to major business demand generators in large metropolitan areas throughout the United States.

Extended Stay currently operates five hotel brands, including (i) Crossland Economy Studios, (ii) Extended Stay America, (iii) Extended Stay Deluxe, (iv) Homestead Studio Suites, and (v) StudioPLUS Deluxe Studios. Each of these brands is designed to appeal to value-conscious customers at different price points in their respective markets. All of Extended Stay's brands offer the same core components: a living/sleeping area, a fully equipped in-room kitchen, appliances, linens, a bathroom, unlimited local phone use, personalized voicemail, high speed internet access, housekeeping and guest laundry services.

3. Management Services and Employees

Each Debtor which owns one or more hotels in the United States has a contract in place with non-Debtor HVM, an entity that is affiliated with, but not owned by, the Extended Stay family of companies. HVM is owned by three individuals, Gary DeLapp (President), Bob Micklash (Chief Operating Officer) and F. Joseph Rogers (Executive Vice President). HVM Manager (an entity owned by David Lichtenstein) acts as the non-member manager of HVM, with the rights and authority to direct the operations of HVM. HVM Canada is a subsidiary of HVM, and manages the three Canadian Extended Stay hotels. Currently, HVM operates as the hotel manager for 686 Extended Stay hotels, in addition to providing administrative functions. The management services provided by HVM and HVM Canada include the implementation of personnel policies and practices, the establishment of prices and room rates, maintenance, renovations, the negotiation and administration of contracts, the maintenance of books and records and the disbursement of mortgaged property revenues.

Currently, HVM employs approximately 9,000 employees in connection with the Debtors' hotels and facilities. There are approximately 7,646 hourly employees and 1,310 salaried employees. In Canada, there are approximately 68 full-time employees and 19 part-time employees. Substantially all of the Debtors' operating expenses are incurred and paid by HVM, and reimbursed to HVM through the management fee and other arrangements between HVM and the Debtors.

4. Legal Proceedings and Claims

(a) Prior to the Commencement Date, Extended Stay, Inc., ESA PA Properties LLC, ESA TX Properties LP, ESA FL Properties LLC, ESA MN Properties LLC, ESA MD Properties Business Trust and ESA Operating Lessee Inc. settled a series of product liability cases with a windows manufacturer and certain of its insurers over defects in windows installed at a number of hotels. The settlement included the entry of a consent judgment for approximately \$30 million to be executed only against the proceeds available under the insurance policies issued by three non-settling insurers. The Debtor entities pursued a garnishment action against the insurers. As of the date hereof, the lawsuit against the remaining three insurance companies has been settled with respect to one insurer and a bench trial to determine the other two insurance companies' obligations under their respective policies was held in June 2009. Closing arguments in the bench trial were delivered on October 20, 2009 and the court took

the matter under advisement. No ruling has been issued yet and no estimate of recovery is available at this time.

(b) Other Pending Litigation.

The Debtors are the subject of various claims and lawsuits in the ordinary course of business arising principally from personal injuries, collisions, and other casualties. Although the outcome of any individual claim or action cannot be predicted with certainty, the Debtors believe that any adverse outcome, individually or in the aggregate, would be substantially mitigated by applicable insurance and would not have a material adverse effect on the Debtors' financial position, results of operations or cash flows.

D. SIGNIFICANT PREPETITION INDEBTEDNESS

In June 2007, Extended Stay was acquired by an investor consortium led by Lichtenstein. The Acquisition was financed through loans in an aggregate amount of \$7.4 billion, which consisted of (i) a mortgage loan in the principal amount of \$4.1 billion (the "*Mortgage Debt*") and (ii) an aggregate of \$3.3 billion in 10 mezzanine loans (the "*Mezzanine Debt*"). In addition, B of A extended financing in the principal aggregate amount of \$8.5 million (the "*B of A Mortgage Debt*") to debtors ESA UD and ESA Operating Lessee Inc. (the "*Operating Lessee*", and together with ESA UD, the "*UD Debtors*").

The instruments evidencing Extended Stay's significant indebtedness are described below. In addition, as of December 31, 2009, other than amounts owed to HVM, Extended Stay had unsecured prepetition debt of approximately \$560,000 (exclusive of any amounts owing in respect of any tax liabilities).

1. Mortgage Loan Agreement

Pursuant to the Mortgage Loan Agreement and the other Loan Documents, the Mortgage Lenders made a loan in the amount of approximately \$4.1 billion to the Mortgage Borrowers. Each of the Mortgage Borrowers is jointly and severally liable for the Mortgage Debt. Although the Mortgage Debt is non-recourse, there are certain non-recourse carve-outs under the Mortgage Loan Agreement. ESI, Homestead, Lightstone (an entity owned by Lichtenstein) and Lichtenstein are the guarantors (collectively, the "*Guarantor*") of the non-recourse carve-out provisions of the Mortgage Debt. Additionally, ESA P Portfolio MD Trust, ESA P Portfolio MD Beneficiary L.L.C., ESA MD Properties Business Trust and ESA MD Beneficiary L.L.C., collectively, guaranteed the obligations of ESA P Portfolio MD Borrower L.L.C. and ESA MD Borrower L.L.C. under the Mortgage Debt. ESA Canada Trustee Inc., ESA Canada Beneficiary Inc. and ESA Canada Properties Trust collectively, guaranteed the obligations of ESA Canada Properties Borrower L.L.C. under the Mortgage Debt.

The Mortgage Debt is secured by cross-collateralized and cross-defaulted first priority liens on 666 properties (collectively, the "*Mortgaged Properties*"), comprised of 664 hotels, Extended Stay's headquarters building in Spartanburg, South Carolina, and a parcel of undeveloped land located in Minnesota, and the other collateral, as set forth in the Loan Documents, including all of the cash proceeds generated from the Mortgaged Properties. The Mortgage Debt is also secured by first priority liens on the intellectual property held by each of BHAC and Homestead. As of the Commencement Date, the aggregate principal amount Mortgage Debt outstanding was approximately \$4.1 billion.

2. Securitization of the Mortgage Debt

Subsequent to the closing of the 2007 Acquisition, the Mortgage Lenders sold their interests in the Mortgage Debt, and received in exchange therefor certificates representing ownership of the beneficial interests in a vehicle (the “*Trust*”) holding the Mortgage Debt and the collateral therefor. In turn, certain investors bought those interests (the “*Certificate Holders*”) which represent beneficial interests in the Trust. The Trust is governed by the Trust and Servicing Agreement, an agreement between Wachovia Large Loan, Inc., as depositor, Wachovia Bank, as servicer and special servicer, and Wells Fargo Bank, N.A., as trustee (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “*Trust and Servicing Agreement*”), dated as of August 1, 2007. The Certificate Holders own 100% of the beneficial interests in the Mortgage Debt. There are 18 principal balance classes of Certificates and, under the Trust and Servicing Agreement, distributions with respect to the Mortgage Debt are allocated to each class of Certificates based on their alphabetical (and, if applicable, numerical) designation, starting with Class A-1. The alphabetical (and numerical, if applicable) designation denotes the priority of the class of Certificates as among the other classes of Certificates.

After the Commencement Date, the administration of the Mortgage Debt was transferred to the Special Servicer.

In addition, U.S. Bank National Association was appointed as successor in interest to Wells Fargo Bank, N.A., as Trustee in Trust for Holders of Wachovia Bank Commercial Mortgage Trust Commercial Mortgage Pass-Through Certificates, Series 2007-ESH (the “*Successor Trustee*,” and together with the trust created under the Trust and Servicing Agreement, dated as of August 1, 2007, the “*Mortgage Debt Parties*”). The Successor Trustee has retained the following attorneys:

McKenna Long & Aldridge LLP
230 Park Avenue, Suite 1700
New York, New York 10169
Attn: Christopher F. Graham, Esq.

303 Peachtree Street, NE
Suite 5300
Atlanta, GA 30308-3265
Attn: Gary Marsh, Esq.

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
Attn: Mitchell A. Seider, Esq. and Keith A. Simon, Esq.

3. Mezzanine Loan Agreements

The Mezzanine Borrowers are borrowers under ten different Mezzanine Loan Agreements with the Mezzanine Lenders, each dated June 11, 2007. As of the Commencement Date, the aggregate principal amount of approximately \$3.3 billion was outstanding under the Mezzanine Loan Agreements.

Pursuant to the Mezzanine Loan Agreements, each Mezzanine Facility is secured by the applicable Pledge Agreement and the other Mezzanine Loan Documents. The Mezzanine Lenders do not have an interest in any of the Mortgaged Properties nor any of the other collateral securing the Mortgage

Debt, including the cash and proceeds generated from the Mortgaged Properties. In addition, pursuant to the Intercreditor Agreement discussed below, the Mezzanine Lenders have agreed and acknowledged that they do not have claims against the Debtors' estates and are not creditors of the Mortgage Borrowers with respect to the Mezzanine Facilities. Mezzanine A Borrower is the legal and beneficial owner of 100% of the issued and outstanding membership interests in certain of the Debtors, and has pledged all of its interests in those entities and certain other rights, and all proceeds of each, as security for the Mezzanine A Loan. The Mezzanine B Borrower is the legal and beneficial owner of 100% of the issued and outstanding membership interests in Mezzanine A Borrower, and has pledged all of its membership interests in Mezzanine A Borrower, certain other rights, and all proceeds of each as security for the Mezzanine B Loan; and the same arrangement has been entered into by the Mezzanine C, D, E, F, G, H, I, and J Borrowers for each respective level of the Mezzanine Debt. Consequently, the Mezzanine J Loan is the most structurally subordinate of the Mezzanine Facilities. The Plan does not deal with the amounts owed in respect of the Mezzanine Facilities, because it does not deal with the assets or liabilities of the Mezzanine Borrowers and because the Plan is not a plan for the estates of the Mezzanine Borrowers.

4. B of A Mortgage Loan Agreement

B of A extended the B of A Mortgage Debt to ESA UD, pursuant to that certain Loan Agreement dated as of February 14, 2008 (as amended, restated, replaced, supplemented or otherwise modified from time to time, together with the other documents executed in connection therewith, collectively, the "***B of A Mortgage Loan Agreement***"), by and among ESA UD, the Operating Lessee and B of A. The B of A Mortgage Debt is secured by all of the real and personal property interests of ESA UD in two hotels located in Wilkes-Barre, Pennsylvania and Findlay, Ohio (collectively, the "***B of A Prepetition Collateral***"). The B of A Prepetition Collateral is not collateral for the Mortgage Debt or the Mezzanine Debt. As of the Commencement Date, approximately \$8.5 million was outstanding under the B of A Mortgage Loan Agreement. ESI is the guarantor of certain payment and performance obligations of UD Debtors the under the B of A Mortgage Loan Agreement.

5. Intercreditor Agreement

The Mortgage Lenders and the Mezzanine Lenders have entered into an Intercreditor Agreement dated as of June 11, 2007 that governs certain of their respective rights and interests in the Mortgage Loan and the Mezzanine Facilities relating to, among other things, their rights and the exercise of remedies during an Event of Default (as defined in the Intercreditor Agreement) and in the event of a bankruptcy filing of their respective borrowers, and the payment subordination of the Mezzanine Loans to the payment in full of the Mortgage Loan, including related enforcement and turn-over provisions.

6. Senior Subordinated Notes

Pursuant to the M & T Indenture, ESI authorized the issuance of up to \$300 million in principal amount of Senior Subordinated Notes due June 15, 2011, which bear interest at the rate of 9-7/8% per annum (the "***Senior Subordinated Notes***"). Interest on the Senior Subordinated Notes is payable semiannually on June 15 and December 15 of each year. As of the Commencement Date, approximately \$8.5 million in principal amount of the Senior Subordinated Notes was outstanding, including accrued and unpaid interest. The Plan does not deal with the amounts owed in respect of the Senior Subordinated Notes, because it does not deal with the assets or liabilities of ESI, and because the Plan is not a plan for the estate of ESI.

V.

KEY EVENTS LEADING TO THE COMMENCEMENT OF THE CHAPTER 11 CASES

A. DETERIORATION IN FINANCIAL PERFORMANCE

Beginning in late 2007 and continuing through 2008 and 2009, Extended Stay faced a liquidity crisis directly attributable to the impact of the deteriorating condition and instability of the financial markets and general economic conditions on the expected performance of the entire hospitality industry. Taken together and in combination with Extended Stay's highly-leveraged financial structure, Extended Stay's overall financial performance was negatively impacted and resulted in Extended Stay being unable to meet certain financial covenants under its loan documents. The decrease in Extended Stay's revenue, Extended Stay's inability to access certain cash receipts generated from its business, and the strictures of Extended Stay's cash management system resulted in Extended Stay facing certain operational challenges. Ultimately, these challenges precipitated the commencement of the Chapter 11 Cases.

Essentially, the sole source of Extended Stay's revenue stream is the income received from guests who stay at the hotels. Since just after the closing of the Acquisition in June 2007, Extended Stay has operated in a difficult financial environment, driven by reduced consumer and commercial spending and high fuel prices, which had a devastating impact on occupancy rates at Extended Stay hotels. This was exacerbated by the unprecedented collapse of the financial markets and crisis in the credit markets in the Fall of 2008. Since the typical Extended Stay customer seeks a lengthy stay based on commercial relocation, the contraction of construction and new business development began to significantly and adversely affect Extended Stay's revenue stream. The tightening credit markets, the reduction in construction activity and increased unemployment decreased the demand for Extended Stay accommodations, as fewer construction sites, consulting opportunities and travel plans came to fruition.

Inasmuch as construction workers comprise a sizable portion of Extended Stay's revenues, the deterioration in the housing industry which began in the Fall of 2007 had substantial and immediate effects on Extended Stay's revenues. The collapse of the financial markets in September 2008 exacerbated an already difficult situation.

As a result of Extended Stay's decreasing cash revenue, it was unable to comply with the debt yield covenant ("**Debt Yield Covenant**") in the Mortgage Loan Agreement and the Mezzanine Loan Agreements. In addition, because the Cash Management Agreement set forth a specific waterfall for use of funds, Extended Stay was unable to obtain free access to its own cash. The combination of these factors, and the fact that receipts have been insufficient to fund the full cash flow distribution, as described in the Cash Management Agreement (including occupancy taxes, a necessary requisite for Extended Stay to operate its business), led to a situation in which it appeared that Extended Stay would not have access to sufficient liquidity to run its operations, both in the immediate future and on a long term going concern basis. Although the tranches of the Mortgage Loan that matured in June 2009 had extension terms, such terms required Extended Stay to make significant amortization payments beginning in June of 2009. Based on Extended Stay's cash flow projections and its need to make critical capital expenditures, Extended Stay was significantly over-leveraged and the projected cash flows could not continue to service over \$7 billion in debt. As a result, Extended Stay and its professionals determined that a comprehensive restructuring of the entire capital structure was necessary to preserve and maximize value.

B. THE RESTRUCTURING NEGOTIATIONS

As a result of its liquidity concerns, Extended Stay began to consult with the necessary professionals to facilitate a discussion with the Certificate Holders and the Mezzanine Lenders regarding a potential restructuring of Extended Stay.

In connection with pursuing a restructuring or recapitalization of Extended Stay, Lazard was retained as an investment banker in September 2008. Since that time, Lazard has reviewed and analyzed Extended Stay's business, operations and financial projections, evaluated Extended Stay's potential debt capacity in light of its projected cash flows, assisted in the determination of a range of value for Extended Stay on a going concern basis, and participated and facilitated meetings and negotiations with the various advisors for the Certificate Holders and the Mezzanine Lenders.

As further detailed in the First Day Declaration, Extended Stay entered into negotiations with various constituencies, including the Certificate Holders and the Mezzanine Lenders (but not including Paulson & Co. Inc.), regarding a potential debt restructuring or potential forbearance, but ultimately reached a point in time where it would not have enough cash to sustain its normal operating expenses.

VI.

THE CHAPTER 11 CASES

On the Commencement Date, ESI and 69 of its affiliates (collectively, the "**Original Debtors**") each commenced with the Bankruptcy Court for the Southern District of New York a voluntary case under Chapter 11. On February 18, 2010, five additional Affiliates of Extended Stay (the "**Subsequent Debtors**") and, collectively, with the Original Debtors, the "**Chapter 11 Debtors**") each commenced with the Bankruptcy Court a voluntary case under Chapter 11.

A. FIRST DAY ORDERS

On the Commencement Date, Extended Stay filed a series of motions seeking various relief from the Bankruptcy Court designed to minimize any disruption to Extended Stay's business operations and to facilitate Extended Stay's reorganization.

1. Case Administration Orders

The Bankruptcy Court issued orders that, among other things: (i) authorized the joint administration of the Chapter 11 Cases, (ii) established certain notice and case management procedures, (iii) authorized the waiver of the requirement to file a list of creditors, (iv) authorized the retention of Kurtzman Carson Consultants LLC as claims and noticing agent, and (v) authorized an extension of time to file schedules and statements of assets of liabilities.¹

¹ By motion dated February 22, 2010, the Chapter 11 Debtors sought an order of the Bankruptcy Court making substantially all of the orders entered with respect to the Original Debtors applicable to the Subsequent Debtors. Such order was entered on _____, 2010.

Extended Stay is authorized to operate its business and manage its properties as debtors in possession pursuant to Section 1107(a) and 1108 of the Bankruptcy Code.

2. Critical Obligations

Initially on an interim basis and, later, on a final basis, the Bankruptcy Court authorized Extended Stay to, among other things honor:

- its obligations under its insurance policies;
- its obligations for prepetition taxes; and
- its obligations under certain prepetition customer programs.

3. Financial Operations

The Bankruptcy Court authorized Extended Stay, on an interim basis, and then after a final hearing, to continue to use its existing centralized cash management system, as modified, honor certain prepetition obligations related to the use of the cash management system, and maintain existing bank accounts and business forms (the “*Cash Management Order*”).

Pursuant to the Cash Management Order, Extended Stay’s banks were authorized to continue the automatic transfer on a daily basis of all available funds in or received in Extended Stay’s local bank accounts to the Cash Management Account (as defined in the Cash Management Order) and Wachovia was authorized to transfer all funds in the Cash Management Account automatically into a new bank account at Wachovia (the “*Extended Stay DIP Lockbox*”). Pursuant to the Cash Collateral Order, the funds in the Extended Stay DIP Lockbox were required to be disbursed in accordance with the terms of the Cash Collateral Order.

4. Business Operations

All Extended Stay hotels are managed by HVM, an entity that is affiliated with, but not owned by, the Extended Stay family of companies. HVM was set up as the manager for the Extended Stay hotels principally as an accommodation to the initial REIT structure of ESI, and to provide administrative services to the Extended Stay hotels. HVM, on behalf of Extended Stay, pays all property level expenses of the hotels, contracts with service providers and purchases all goods and materials utilized in the operation of the business. HVM currently employs approximately 9,000 employees in connection with the operation of the hotels.

The ability of HVM to continue the operation of the Extended Stay portfolio of hotels depends upon the uninterrupted, continued access to the services provided by certain essential service providers to Extended Stay’s properties. Mindful of their fiduciary obligations to preserve and maximize the value of their estates, on the Commencement Date, Extended Stay sought authority to reimburse HVM for certain critical operating expenses, in order to effectuate the seamless transition to a business operating under Chapter 11 and to continue to provide uninterrupted services to the Extended Stay customer. The Bankruptcy Court authorized Extended Stay, on an interim basis, and then after a final hearing, to continue to reimburse HVM for the critical operating expenses incurred on Extended Stay’s behalf prior to the Commencement Date. Examples of the categories included in the critical operating expenses included, but were not limited to (a) the salaries of approximately 9,000 employees, (b) utility payments, (c) repair and maintenance payments, (d) property taxes, (e) insurance payments, and (f)

reservation and travel agent fees (collectively, the “**Critical Operating Expenses**”). Extended Stay also sought to continue to reimburse HVM for such Critical Operating Expenses throughout the pendency of the Chapter 11 Cases pursuant to the Cash Collateral Motion, Cash Collateral Order, and the Budget (as defined in the Cash Collateral Motion).

B. USE OF CASH COLLATERAL

1. The Cash Collateral Order

On the Commencement Date, Extended Stay filed a motion for an order (A) (i) Authorizing Use of Cash Collateral, (ii) Granting Adequate Protection, and (iii) Modifying the Automatic Stay, and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001 (the “**Cash Collateral Motion**”). Given that Extended Stay’s operations generated positive cash flow on an operating basis, Extended Stay did not negotiate for a debtor-in-possession loan, and instead, Extended Stay negotiated the continued use of cash collateral with the Ad Hoc Mortgage Lender Group (as defined in the Cash Collateral Motion). The cash collateral funds were expected to serve as the only cash resource during the administration of the Chapter 11 Cases and were used to advance funds to HVM with which to continue to operate Extended Stay’s hotel business. The proposed interim Cash Collateral Order attached to the Cash Collateral Motion, as filed, reflected the terms agreed upon by Extended Stay and the Ad Hoc Mortgage Lender Group prior to the Commencement Date.

After the Commencement Date, the special servicing duties with respect to the Mortgage Debt were transferred from Wachovia as servicer to the Special Servicer. U.S. Bank National Association was appointed the Successor Trustee. In light of these changes, Extended Stay determined that it had to re-negotiate the terms of the proposed interim Cash Collateral Order with the Mortgage Debt Parties. Accordingly, on June 16, 2009, the Bankruptcy Court made a bench ruling authorizing the interim use of cash collateral, and on June 29, 2009, the Bankruptcy Court further authorized the second interim use of cash collateral. After the final hearing on the Cash Collateral Motion on July 17, 2009, the Bankruptcy Court entered the Final Order (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection, and (C) Modifying the Automatic Stay, dated July 23, 2009 [Docket No. 205].

Pursuant to the Cash Collateral Order, Extended Stay is authorized to utilize the cash collateral subject to the terms and conditions of the Cash Collateral Order, pursuant to a 13-week budget (as further amended, the “**Budget**”). As adequate protection for, and solely to the extent of, any diminution of the value of the Mortgage Debt Parties’ interest in the Prepetition Collateral from and after the Commencement Date (the amount of any such diminution being referred to as the “**Adequate Protection Obligations**”), the Mortgage Debt Parties were granted the (a) Adequate Protection Liens; (b) Adequate Protection Superpriority Claims; and (c) Adequate Protection Payments (as defined and further set forth in the Cash Collateral Order).

2. Modification of the Cash Collateral Order

Since the Commencement Date, Extended Stay has been providing payments of approximately \$18 million per month to the Mortgage Debt Parties, as Adequate Protection Payments. However, in the fall of 2009, Extended Stay, together with their professionals, determined that due to the seasonality of Extended Stay’s business and the fact that Extended Stay would soon be entering its slow season, Extended Stay might experience a tightening of liquidity without an adjustment to its obligation to make Adequate Protection Payments. After subsequent discussions and negotiations with the Mortgage Debt Parties, Extended Stay filed its Motion for Order Approving Stipulation and Agreement

between Extended Stay and the Mortgage Debt Parties Modifying Final Cash Collateral Order, dated November 17, 2009 [Docket No. 591] (the “**Modification**”).

On December 15, 2009, the Bankruptcy Court approved the terms of the Stipulation, Agreement and Order between the Debtors and the Mortgage Debt Parties Modifying Final Cash Collateral Order [Docket No. 634]. Pursuant to the Modification, the Adequate Protection Payments were modified as follows:

(a) On the date that any interest payment is due under the Loan Documents (the “**Payment Date**”), Extended Stay’s Adequate Protection Payment may be deferred, in whole or in part, if the amount of Extended Stay’s Available Cash (as defined therein), as of the close of business one business day before the Payment Date is less than \$22.5 million, after giving effect to the amount of the Adequate Protection Payment (the “**Deferred Adequate Protection Amount**”).

(b) If Extended Stay *does not* have sufficient Available Cash to make the Adequate Protection Payment in a particular month, then the amount deferred shall be added to the Deferred Adequate Protection Amount. If the Mortgage Borrowers *do* have sufficient Available Cash to make the Adequate Protection Payment for that month, then Extended Stay shall pay the Mortgage Debt Parties any Available Cash of Extended Stay’s that is in excess of \$22.5 million, not to exceed the Adequate Protection Payment for that month plus the then outstanding Deferred Adequate Protection Amount.

As of the date hereof, the Debtors have had sufficient cash each month to make the Adequate Protection Payments.

C. CREDITORS’ COMMITTEE

On June 24, 2009, the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) pursuant to its authority under Section 1102 of the Bankruptcy Code, appointed the Creditors’ Committee.

The current members of the Creditors’ Committee are:²

Manufacturers and Traders Trust Company
25 South Charles Street- 16th Floor
Baltimore, Maryland 21201
Attn: Robert D. Brown, Administrative Vice President
Tel. No. (410) 244-4238

Ashford Hospitality Finance L.P.
14185 Dallas Parkway, Suite 1100
Dallas, Texas 75254
Attn: David A. Brooks, Vice President
Tel. No. (972) 778-9207

² Bank of America, N.A. and Wachovia Bank were initially members of the Creditors’ Committee but subsequently resigned. On November 10, 2009, the U.S. Trustee filed the amended list of the members of the Creditors’ Committee, which removed Bank of America, N.A. as a member of the Creditors’ Committee. On January 25, 2010, the U.S. Trustee filed a second amended list of the members of the Creditors’ Committee, which removed Wachovia Bank, N.A. as a member of the Creditors’ Committee.

Hospitality F LLC
 c/o Greenberg Nicoletta & Stein
 370 Lexington Avenue
 New York, New York 10017
 Attn: Sam Weiss, Member
 Tel. No. (718) 384-0472

KeyBank National Association
 127 Public Square
 Mail Code OH-01-27-0844
 Cleveland, Ohio 44114
 Attn: Scott Childs, Vice President
 Tel No. (216) 689-5989

Atlas Venture I, LLC
 c/o E2M Partners, LLC
 3401 Armstrong Avenue
 Dallas, Texas 75205
 Attn: Mark D. Van Kirk
 Tel No. (214) 443-1924

The Creditors' Committee has the following Bankruptcy Court approved advisors:

<u>Attorneys</u>	<u>Financial Advisors</u>
Hahn & Hessen LLP 488 Madison Avenue New York, NY 10022 Attn: Mark T. Power, Esq., Mark S. Indelicato, Esq., and Christopher Jarvinen, Esq.	Jefferies & Company, Inc. 520 Madison Avenue, 10th Floor New York, NY 10022 Attn: Michael Henkin and David Losito
<u>Hospitality Advisors</u>	<u>Information Agent</u>
Jones Lang LaSalle Hotels 153 East 53rd Street, 33rd Floor New York, NY 10022 Attn: Arthur Adler	BMC Group, Inc. Information Agent 600 First Avenue, Suite 300 Seattle, WA 98104 Attn: Tinamarie Feil

Since the appointment of the Creditors' Committee, Extended Stay has consulted with the Creditors' Committee concerning the administration of the Chapter 11 Cases. Extended Stay has informed the Creditors' Committee with respect to its operations and informed the Creditors' Committee of actions and transactions outside the ordinary course of business.

On August 12, 2009, the Bankruptcy Court entered the Stipulation and Agreed Order Between Extended Stay and the Official Committee of Unsecured Creditors of Extended Stay Inc., et al., Clarifying Its Requirement to Provide Access to Information Pursuant to 11 U.S.C. §§ 105(a), 1102(b)(3)(A) and 1103(c). Extended Stay has consulted with the Creditors' Committee regarding information requests, and has provided certain requested documents in response to various information requests by the Creditors' Committee.

D. SCHEDULES, BAR DATE AND RULE 2015.3 REPORTS

On September 28, 2009, the Original Debtors filed their schedules of assets and liabilities, and statements of financial affairs (the “*Schedules*”) [Docket Nos. 314-454]. The Subsequent Debtors will file their Schedules by March 4, 2010. On October 13, 2009, Extended Stay filed its first Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtors’ Estate Holds a Substantial or Controlling Interest pursuant to Bankruptcy Rule 2015.3 (the “*Rule 2015.3 Report*”). On November 19, 2009, the Bankruptcy Court entered an order establishing **Friday, January 15, 2010 at 5:00 p.m. (prevailing Eastern Time)** as the last date and time (the “*Bar Date*”) for each person or entity (including without limitation, each individual, partnership, joint venture, corporation, estate, trust, and governmental unit (as defined in Section 101(27) of the Bankruptcy Code)) to file a proof of claim based upon prepetition claims against Extended Stay. A bar date has not yet been established for the Subsequent Debtors, because the Subsequent Debtors have no assets or liabilities. In accordance with the order establishing the Bar Date, Extended Stay mailed a notice of the Bar Date and a proof of Claim form to all known holders of Claims and, on November 25, 2009, published notice of the Bar Date in the Wall Street Journal.

E. APPOINTMENT OF AN EXAMINER

On July 30, 2009, the U.S. Trustee filed the Motion for the Appointment of an Examiner Pursuant to Section 1104(c) of the Bankruptcy Code [Docket No. 219] (the “*Examiner Motion*”). After subsequent discussions with Extended Stay, the Successor Trustee, the Creditors’ Committee and other parties in interest regarding the relief requested in the Examiner Motion, the U.S. Trustee narrowed the scope of the proposed examiner’s duties. On September 28, 2009, Ralph R. Mabey was appointed as examiner in the Chapter 11 Cases (the “*Examiner*”) and by order dated September 29, 2009 [Docket No. 455], the Court approved the appointment of the Examiner (the “*Examiner Order*”).

By order dated December 11, 2009, the Bankruptcy Court approved the retention of Stutman, Treister & Glatt Professional Corporation as counsel for the Examiner, *nunc pro tunc* to September 24, 2009 [Docket No. 618]. By order dated December 11, 2009, the Bankruptcy Court approved the retention of Alvarez & Marsal Dispute Analysis Forensic Services, L.L.C. as financial advisor for the Examiner, *nunc pro tunc* to October 13, 2009 [Docket No. 619].

On December 11, 2009, the Bankruptcy Court entered the Order Granting the Examiner’s Motion for an Order Approving the Examiner’s Work Plan and Budget (as Amended) [Docket No. 616]. Since the appointment of the Examiner and its professionals, Extended Stay and the other parties in interest have been involved in numerous discussions regarding confidentiality agreements, and document requests and have participated in numerous interviews and depositions. The deadline for the Examiner to file its report which was originally February 19, 2010, has been extended by order of the Bankruptcy Court to March 12, 2010.

F. ADVERSARY PROCEEDINGS

Since the Commencement Date, the Debtors have been involved in three adversary proceedings in the Bankruptcy Court. Each proceeding is summarized briefly below.

The B of A Action

On June 16, 2009, B of A, Wachovia, and U.S. Bank National Association, as trustee for Maiden Lane Commercial Mortgage Backed Securities Trust 2008-1 (collectively, the “**B of A Plaintiffs**”) initiated an action in the Supreme Court of the State of New York, County of New York (the “**State Court**”) styled *Bank of America N.A., Wachovia Bank N.A., and U.S. Bank National Association, as Trustee for Maiden Lane Commercial Mortgage Backed Securities Trust 2008-1 v. Lightstone Holdings LLC and David Lichtenstein* (the “**B of A Action**”) through the filing of a complaint against Lightstone Holdings LLC and David Lichtenstein (collectively, the “**B of A Defendants**”). In their complaint, the B of A Plaintiffs sought to enforce certain guaranty agreements. The B of A Plaintiffs are seeking declaratory relief and money damages against the B of A Defendants in excess of \$100 million.

Initially, the B of A Defendants removed the B of A Action from the State Court to the United States District Court for the Southern District of New York (the “**District Court**”), which, in turn, referred the matter to the Bankruptcy Court, where the matter was docketed as adversary proceeding 09-01353 (JMP). In response, the B of A Plaintiffs sought an order remanding the B of A Action to the State Court. The Debtors and the B of A Defendants opposed the remand motion and the Debtors also moved to intervene in the adversary proceeding. By order dated October 7, 2009, the Bankruptcy Court remanded the B of A Action to the State Court, without ruling on the Debtors’ motion to intervene [Docket No. 26].

On October 16, 2009, the B of A Defendants filed a notice of appeal of the order remanding the B of A Action to the State Court. The Debtors filed a notice of appeal on October 22, 2009. The appeals are currently pending before District Court Judge Laura Taylor Swain.

The Five Mile Action

On June 23, 2009 (and amended June 26, 2009), Five Mile Capital II SPE ESH LLC (the “**Five Mile Plaintiff**”) initiated a suit, styled *Five Mile Capital II SPE ESH LLC v. Cerberus Capital Management L.P., Centerbridge Partners, L.P., The Blackstone Group, Inc. and GEM Capital Management, Inc.* (the “**Five Mile Action**”) against Centerbridge Partners, L.P., Cerberus Capital Management, L.P., The Blackstone Group, Inc. and GEM Capital Management, Inc. (collectively, the “**Five Mile Defendants**”) in the State Court.³ In the Five Mile Plaintiff’s amended complaint, they sought to hold the Five Mile Defendants liable for damages that allegedly resulted from the actions of the Five Mile Defendants in negotiating the terms of a restructuring with Extended Stay and to enjoin the Five Mile Defendants from conducting any further negotiations with the Debtors.

Initially, the Five Mile Defendants removed the Five Mile Action from State Court to District Court, which, in turn, referred the matter to the Bankruptcy Court, where the matter was docketed as adversary proceeding 09-01367 (JMP). In response, the Five Mile Plaintiff sought an order remanding the Five Mile Action to the State Court. The Debtors and the Five Mile Defendants opposed the remand motion and the Debtors also moved to intervene in the adversary proceeding. On October 7, 2009, the Bankruptcy Court denied the Five Mile Plaintiff’s motion to remand, and on October 8, 2009 the Bankruptcy Court granted the Debtors motion to intervene in the Five Mile Action. That same day, the Five Mile Plaintiffs filed a notice of appeal of the order denying the remand of the Five Mile Action and a separate notice of appeal of the order granting the Debtors motion to intervene. The appeals are currently pending before District Court Judge Laura Taylor Swain.

³ The Five Mile Plaintiff amended the Five Mile Action on June 26, 2009 to add defendants The Blackstone Group, Inc. and GEM Capital Management, Inc.

The Line Trust Action

On June 24, 2009, Line Trust Corporation Ltd. and Deuce Properties Ltd. (collectively, the “**Line Trust Plaintiffs**”) initiated an action, styled *Line Trust Corporation Ltd. and Deuce Properties Ltd., v. David Lichtenstein, Lightstone Holdings LLC, Wells Fargo Bank, N.A., in its capacity as trustee, Wachovia Bank N.A., Bank of America, N.A., U.S. Bank National Association, Cerberus Capital Management, L.L.C., Centerbridge Partners, L.P., and John Does 1-20, being persons whose identities are presently unknown to the B of A Plaintiffs and who are acting as Supporting Holders of the Term Sheet proposed by Lichtenstein* (the “**Line Trust Action**”) through the filing of a complaint in the State Court against David Lichtenstein, Lightstone Holdings LLC, Wells Fargo Bank, N.A., in its capacity as trustee, Wachovia Bank N.A., Bank of America, N.A., U.S. Bank National Association, Cerberus Capital Management, L.L.C., Centerbridge Partners, L.P., and John Does 1-20, being persons whose identities are presently unknown to the B of A Plaintiffs and who are acting as Supporting Holders of the Term Sheet proposed by Lichtenstein (the “**Line Trust Defendants**”). In their complaint, the Line Trust Plaintiffs alleged, *inter alia*, claims for breach of a guarantee agreement, breach of fiduciary duty and tortious interference with contractual relations among the Debtors’ lenders.

Initially, certain Line Trust Defendants removed the Line Trust Action from State Court to District Court, which, in turn, referred the matter to the Bankruptcy Court, where the matter was docketed as adversary proceeding 09-01354 (JMP). In response, the Line Trust Plaintiffs sought an order remanding the Line Trust Action to the State Court. The Debtors and certain Line Trust Defendants opposed the remand motion and the Debtors also moved to intervene in the adversary proceeding. On October 7, 2009, the Bankruptcy Court remanded the Line Trust Action to the State Court, without ruling on the Debtors’ motion to intervene [Docket No. 47].

On October 16, 2009, October 22, 2009, and October 26, 2009, the Debtors and certain of the Line Trust Defendants filed notices of appeal of the order remanding the Line Trust Action to the District Court. The appeals are currently pending before District Court Judge Laura Taylor Swain.

G. HVM INCENTIVE PLAN

Well in advance of the Commencement Date, in September 2008, HVM entered into agreements (the “**Letter Agreements**”) with many of its key employees (the “**Critical Employees**”), which included senior management, 14 field supervisors, 40 regional directors of operations and various other executives responsible for the operations of the Extended Stay hotels. Although the Letter Agreements were entered into in advance of the Commencement Date, they were entered into in contemplation of the financial restructuring of Extended Stay that was foreseeable at that time and in order to provide stability to Extended Stay’s operations during an uncertain, but critical, period. Pursuant to the Letter Agreements, each Critical Employee was entitled to a cash bonus equal to the specified amount set forth in its respective Letter Agreement, with one-third of the amount having been due (and paid) on December 31, 2008, and the remaining two-thirds due on September 30, 2009 (such remaining amounts, the “**Remaining Payments**”). As of the Commencement Date, the total Remaining Payments aggregated approximately \$4.4 million.

Pursuant to the terms of the Cash Collateral Order, the Debtors obtained authority to utilize Cash Collateral in accordance with the budget attached thereto. However, approval of \$4.5 million of payroll-related expenses in the Budget was deferred, subject to further discussions with the Successor Trustee, the Special Servicer and the Creditors’ Committee. On October 6, 2009, Extended Stay filed a motion seeking authorization to use the Extended Stay’s Cash Collateral for payments regarding the HVM LLC Incentive Program [Docket No. 487] (the “**HVM Incentive Program Motion**”) in order to

ensure that prompt redress to the Court was available if the HVM Incentive Plan was not consented to by the Special Servicer or the Creditors' Committee asserted an objection to the proposed budget modifications that would have been required in order to effectuate the HVM Incentive Program.

Subsequent to the filing of the HVM Incentive Program Motion, the U.S. Trustee and the Creditors' Committee filed objections thereto [Docket Nos 502 and 530, respectively].

As a result of the U.S. Trustee's objection, Extended Stay and HVM, with the assistance of their respective advisors, restructured and modified the HVM Incentive Program (as amended, the "**Revised HVM Incentive Program**"). By the Order Authorizing Use of Cash Collateral for Payments Regarding HVM LLC Incentive Program for Non-Senior Management Critical Employees, dated October 29, 2009 [Docket No. 543], the Remaining Payments for Critical Employees, except for five senior executives (the "**Senior Executives**"), were approved. Later, pursuant to the Second Order Authorizing the Use of Cash Collateral for Payments Regarding the Revised HVM LLC Incentive Program issued on November 12, 2009 the Bankruptcy Court approved the Revised HVM Incentive Program for the Senior Executives [Docket No 582].

Under the terms of the Revised HVM Incentive Program, substantially all of the payments to the Senior Executives were modified to be performance-based. The Revised HVM Incentive Program added another performance metric to the calculation of whether all the Critical Employees qualify for the Additional Payments and whether the Senior Executives qualify for the Quarterly Payments. The net effect of the third metric is that 50% of the calculation is based on the RevPar Index and 50% will be based on cost factors, divided equally between Controllable Costs Per Occupied Room and Corporate Overhead.

Pursuant to the terms of the Revised HVM Incentive Plan, 65% of the compensation proposed for the Critical Employees and 96% of the compensation proposed for the Senior Executives is triggered by certain performance-based metrics, assuming Extended Stay achieves its fourth revised business plan (the "**Business Plan**") and its peers perform as expected. These metrics are (i) the RevPAR Index Percentage Change, (ii) the change in Controllable Cost Per Occupied Room, and (iii) the Corporate Overhead performance. In addition, the Senior Executives are compensated for expediting the Debtors' emergence from Chapter 11. Ultimately, after extensive negotiations and modifications, the terms of the Revised HVM Incentive Program were agreed to by the Debtors, HVM, the Special Servicer, the Trustee, the U.S. Trustee and the Creditors' Committee. Pursuant to the Second Order Authorizing Use of Cash Collateral for Payment Regarding the Revised HVM LLC Incentive Program, dated November 11, 2009 [Docket No. 582], the terms of the Revised HVM Incentive Plan were approved. Since the entry of the order, all of the Critical Employees entered into letter agreements that reflect the terms of the Revised HVM Incentive Plan. To date, approximately \$1.2 million of the Remaining Payments have been distributed to the Critical Employees who are not Senior Executives, and approximately \$2.1 million, representing the quarterly payment for the period ending December 31, 2009, has been paid to the Senior Executives.⁴

⁴ In addition, approximately \$918,000 attributable to the stub period ending December 31, 2009 has been placed in escrow for the benefit of the Senior Executives.

VII.

THE PLAN OF REORGANIZATION

A. SUMMARY OF NEGOTIATIONS LEADING UP TO THE FILING OF THE PLAN

After stabilizing their business and addressing other immediate challenges of the bankruptcy filing, the Debtors and their advisors turned to the challenge of the Debtors' over-leveraged capital structure. The Debtors initially attempted to proceed with negotiations designed to garner support for a plan of reorganization premised upon the terms set forth in the restructuring term sheet that accompanied the First Day Declaration (the "**Restructuring Term Sheet**"). The Debtors also engaged in discussions with the Special Servicer as to plan alternatives. However, due to the continuing deterioration of the economy, in general, and the hotel business, in particular, as well as the Debtors' substantial need for capital expenditures, it became apparent that new capital would be required for the Debtors to emerge from bankruptcy with a feasible plan. Specifically, the Debtors determined that they would need a substantial cash infusion to pay debt service and to continue the necessary investment in capital improvements that will be necessary to the Debtors' financial performance. As a result, the Debtors determined that the Restructuring Term Sheet, which did not contemplate a cash investment, no longer provided a viable restructuring plan and, therefore, should no longer be pursued.

The Debtors communicated their need for incremental capital to, and engaged in discussions with, various parties, including Centerbridge and Paulson. Centerbridge was established in 2006 and currently has approximately \$11 billion in capital under management across several funds. The firm is dedicated to partnering with world class management teams to invest across multiple stages of a company's life cycle and to employ various strategies to help companies achieve their operating and financial objectives. Centerbridge's limited partners include many of the world's most prominent financial institutions, university endowments, pension funds, and charitable trusts. Paulson is an SEC registered investment advisor with offices in New York, London and Hong Kong and approximately \$32 billion of capital under management as of December 31, 2009. The firm was founded in 1994 by John Paulson who is the President and Portfolio Manager of Paulson. One of Paulson's areas of specialty is in providing capital to reorganizing companies to help them exit bankruptcy with less debt allowing them to grow and prosper.

Responding to the Debtors' request, in late November 2009, the Investors began discussing with the Debtors a potential "new money" plan that would include a direct equity investment and a backstopped rights offering. The Debtors and the Investors began negotiating term sheets that set forth the basis for the terms of the Investment and the Rights Offering. Finally, on or about December 31, 2009, the Debtors and the Investors reached an agreement in principle. At that time, the Debtors took steps to engage the Special Servicer in the process and shared the term sheets with the Special Servicer. In early January, 2010, the Debtors, the Investors and the Special Servicer discussed the term sheets and the process the Special Servicer contemplated undertaking to elicit support from Certificate holders. The Debtors and the Investors determined that, given the Debtors desire to exit Chapter 11 expeditiously, unless they had a fully developed, documented and proposed Chapter 11 plan, commencing the Special Servicer's process at that time would lead to unnecessary delay and confusion. Accordingly, the Debtors and the Investors commenced negotiations on definitive documentation to effectuate the Investment, Rights Offering and Plan. On February 19, 2010, the Debtors filed the Debtors' Motion Pursuant to Section 105 and 363(b) of the Bankruptcy Code Authorizing Debtors to Enter into Investment and Standby Purchase Agreement (the "**Approval Motion**") [Docket No. 768]. The Approval Motion included as exhibits a Commitment Letter from the Investors, the Investment and Standby Purchase Agreement and the Plan.

As discussed in Article IV hereof, concurrently with the negotiations of the Investment and Standby Purchase Agreement and the Plan, in order to preserve the current operations and management of the Debtors' businesses, including the employment of HVM's 9,000 employees, ensure a seamless transition of the hotel properties and prevent any diminution in the value of the Debtors' estates, the Debtors and Investors negotiated a purchase agreement for HVM Manager, pursuant to which HVM Manager will resign and appoint a designee of the Investors as successor manager of HVM to ensure that HVM continues to manage the Debtors properties.

B. DEBTORS UNDER THE PLAN

The Chapter 11 Debtors that are dealt with by the Plan are set forth on Exhibit A to the Plan. Essentially, these entities are all of the entities that are Mortgage Borrowers as well as certain additional entities such as various operating lessees, trust entities or general partners, the transfer of which will facilitate consummation of the Plan. None of the Mezzanine Borrowers, Homestead or ESI is dealt with by this Plan. Inasmuch as the hotel properties constitute substantially all of the Debtors' assets and constitute collateral for the Mortgage Loan, which is substantially undersecured, it is unlikely that assets will be available for creditors of the entities which own the Debtors.

C. PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

1. Payment of Allowed Administrative Expense Claims

The Allowed Amount of each Administrative Expense Claim that is Allowed as of the Effective Date shall be paid in full, in Cash, on the Effective Date; provided, however, that Administrative Expense Claims of the type specified in Section 1.6(c)(i) of the Plan shall be assumed and paid by NewCo in accordance with the terms and conditions of the particular transactions and any agreements relating thereto. Each holder of an Administrative Expense Claim of the type specified in Section 1.6(c)(ii) or 1.6(c)(iii) of the Plan shall be paid the Allowed Amount of such Administrative Expense Claim in full, in Cash, as soon as practicable after such Administrative Expense Claim is Allowed.

2. Compensation and Reimbursement Claims

The Bankruptcy Court shall fix in the Confirmation Order a date for the filing of, and a date to hear and determine, all applications for final allowances of compensation or reimbursement of expenses under Section 330 of the Bankruptcy Code or applications for allowance of Administrative Expense Claims arising under Section 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 503(b)(6) of the Bankruptcy Code. The Allowed Amount of all Administrative Expense Claims arising under Section 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 503(b)(6) of the Bankruptcy Code shall be paid in full, in Cash, (a) upon the later of (i) the Effective Date and (ii) the date upon which any such Administrative Expense Claim becomes Allowed or (b) at such later date or upon such other terms as may be mutually agreed upon between each such Administrative Expense Creditor and NewCo.

3. Priority Tax Claims

Each holder of an Allowed Priority Tax Claim shall 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 NewCo.

D. CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following table designates the Classes of Claims against and Equity Interests in the Debtors and specifies which of those Classes are (i) impaired or unimpaired by the Plan and (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code.

CLASS	DESIGNATION	STATUS	ENTITLED TO VOTE?
Class 1	Priority Claims	Unimpaired	No
Class 2	Mortgage Facility Claim	Impaired	Yes
Class 3	ESA UD Mortgage Claim	Impaired	Yes
Class 4	Mortgage Facility Deficiency Claim	Impaired	Yes
Class 5	General Unsecured Claims	Impaired	Yes
Class 6	Existing Equity	Impaired	No
Class 7	ESA MD Properties Trust Certificate	Unimpaired	No
Class 8	ESA MD Borrower Interests	Unimpaired	No
Class 9	ESA P Portfolio MD Trust Certificate	Unimpaired	No
Class 10	ESA P Portfolio MD Borrower Interests	Unimpaired	No
Class 11	ESA Canada Properties Interests	Unimpaired	No
Class 12	ESA Canada Properties Borrower Interests	Unimpaired	No
Class 13	ESH/TN Properties L.L.C. Membership Interests	Unimpaired	No
Class 14	ESH/ESA General Partnership Interests	Unimpaired	No
Class 15	Other Existing Equity	Impaired	No

E. TREATMENT OF CLAIMS AND EQUITY INTERESTS

1. Class 1. Priority Claims

(a) *Classification:* Class 1 consists of the Allowed Priority Claims.

(b) *Treatment:* Each holder of an Allowed Priority Claim shall be paid the Allowed Amount of its Allowed Priority Claim, in full, in Cash, on the later of the Effective Date and as soon as practicable after the date such Priority Claim becomes Allowed.

(c) *Voting:* Class 1 is not impaired. The holders of the Claims in Class 1 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

2. Class 2. Mortgage Facility Claim

(a) *Classification:* Class 2 consists of the Allowed Mortgage Facility Claim.

(b) *Treatment:*

- A. Subject to Section 6.2(a) of the Plan, in the event that Class 2 accepts the Plan, the holder of the Allowed Mortgage Facility Claim shall receive (A) 100% of the Rights, and, (B) on the Initial Distribution Date, 100% of the New Class A1 Mortgage Notes, 100% of the New Class A2 Mortgage Notes, 100% of the New Class A3 Mortgage Notes, 100% of the New Class A4 Mortgage Notes, NewCo Common Interests representing 55.00% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date, as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date), and 100% of the New Unsecured Notes.
- B. In the event that Class 2 rejects the Plan, the holder of the Allowed Mortgage Facility Claim shall receive, on the Initial Distribution Date, the New Alternate Notes in an aggregate principal amount not to exceed \$3,200,000,000, which represents the value of the collateral securing the Allowed Mortgage Facility Claim, and which New Alternative Notes shall bear interest at the rate of up to 5.34% per annum or such lower rate as shall be fixed by the Bankruptcy Court and shall have a final maturity date that is nine (9) years after the Initial Distribution Date. The Debtors, with the consent of the Investors, reserve the right to seek confirmation of a plan under section 1129(b) of the Bankruptcy Code, pursuant to which the holder of the Allowed Mortgage Facility Claim will receive New Alternate Notes in an aggregate principal amount less than \$3,200,000,000, with the difference between the amount of such New Alternate Note and \$3,200,000,000 being provided in New Equity Securities, to the extent permitted by law. In either such circumstance, the Rights shall be extinguished.

(c) *New Unsecured Notes Election for Class B-G Mortgage Certificates:* Provided Class 2 is entitled to the treatment set forth in Section 4.2(b)(i) of the Plan, at the election of any holder of (i) a Class B - F Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of aggregate principal amount of New Unsecured Notes for each \$1.00 of face amount of the Class B - F Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests, and (ii) a Class G Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of New Unsecured Notes multiplied by the Class G Proportion for each \$1.00 of face amount of the Class G Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests; *provided*, that, in the case of both (i) and (ii), the aggregate principal amount of all New Unsecured Notes received by all holders of Class B - G Mortgage Certificates in lieu of NewCo Common Interests does not exceed, in the aggregate, the New Unsecured Notes Cap. In the event the holders of Class B - G Mortgage Certificates collectively elect to receive an aggregate principal amount of New Unsecured Notes in excess of the New Unsecured Notes Cap, the New Unsecured Notes shall be allocated to the holders of Class B - G Mortgage Certificates in accordance with the respective priority of the Class B - G Mortgage Certificates until the aggregate amount of the New Unsecured Notes issued equals the New Unsecured Notes Cap. Each holder of a Class B - G Mortgage Certificate electing to receive New Unsecured Notes shall receive on the Initial Distribution Date (A) its Pro Rata Share of

New Unsecured Notes having an aggregate principal amount equal to the New Unsecured Notes Cap; *provided*, however, that in the case of holders of Class G Mortgage Certificates, the Pro Rata Share shall be calculated as provided in clause (ii) above, and (B) with respect to the Class B – F Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive, and with respect to the Class G Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) multiplied by the Class G Proportion for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive.

(d) *Interest*: Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed Mortgage Facility Claim.

(e) *Voting*: Class 2 is impaired. The holder of the Claim in Class 2 is entitled to vote to accept or reject the Plan.

3. Class 3. ESA UD Mortgage Claim

(a) *Classification*: Class 3 consists of the Allowed ESA UD Mortgage Claim.

(b) *Treatment*: The holder of the Allowed ESA UD Mortgage Claim shall receive on the Distribution Date the New ESA UD Mortgage Note in full settlement, satisfaction, release and discharge of the Allowed ESA UD Mortgage Claim.

(c) *Interest*: Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed ESA UD Mortgage Claim.

(d) *Voting*: Class 3 is impaired. The holder of the Claim in Class 3 is entitled to vote to accept or reject the Plan.

4. Class 4. Mortgage Facility Deficiency Claim

(a) *Classification*: Class 4 consists of the Mortgage Facility Deficiency Claim.

(b) *Treatment*: No distribution shall be made under the Plan in respect of the Mortgage Facility Deficiency Claim; *provided, however*, that in order to facilitate a consensual Plan, if Class 4 votes to accept the Plan, Class 4 shall receive its Pro Rata Share of the New A Warrants. For purposes of calculating Pro Rata Share, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.

(c) *Interest*: Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed Mortgage Facility Deficiency Claim.

(d) *Voting*: Class 4 is impaired. The holder of the Claim in Class 4 is entitled to vote to accept or reject the Plan.

5. Class 5. General Unsecured Claims

(a) *Classification:* Class 5 consists of the General Unsecured Claims.

(b) *Treatment:* No distribution shall be made under the Plan in respect of the General Unsecured Claims; provided, however, that in order to facilitate a consensual Plan, if Class 5 accepts the Plan, each holder of a General Unsecured Claim shall receive, at its election, either (i) its Pro Rata Share of New A Warrants, or (ii) if its claim is \$100,000 or less, or it elects to reduce its claim to \$100,000, its Pro Rata Share of the Cash Distribution ; provided, however, that if Class 4 accepts the Plan, all holders of General Unsecured Claims shall be deemed to have elected the Cash option. For purposes of calculating Pro Rata Share under the Plan, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.

(c) *Interest:* Interest shall neither accrue nor be payable from and after the Commencement Date with respect to Allowed General Unsecured Claims.

(d) *Voting:* Class 5 is impaired. The holders of the Claims in Class 5 are entitled to vote to accept or reject the Plan.

6. Class 6. Existing Equity

(a) *Classification:* Class 6 consists of the Existing Equity.

(b) *Treatment:* No distribution shall be made under the Plan from the Debtors' estate in respect of the Existing Equity. On the Effective Date, the certificates that previously evidenced ownership of Existing Equity shall be cancelled and shall be null and void, the holder(s) thereof shall no longer have any rights in respect of the Existing Equity, and such certificates shall not evidence any rights under the Plan.

(c) *Voting:* Class 6 is impaired. The holders of Existing Equity in Class 6 are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

7. Class 7. ESA MD Properties Trust Certificate

(a) *Classification:* Class 7 consists of the ESA MD Properties Trust Certificate.

(b) *Treatment:* The holder of the ESA MD Properties Trust Certificate shall retain the ESA MD Properties Trust Certificate.

(c) *Voting:* Class 7 is not impaired. The holder of the Equity Interest in Class 7 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

8. Class 8. ESA MD Borrower Interests

(a) *Classification:* Class 8 consists of the ESA MD Borrower Interests.

(b) *Treatment:* Each holder of ESA MD Borrower Interests shall retain its ESA MD Borrower Interests.

(c) *Voting:* Class 8 is not impaired. The holders of the Equity Interests in Class 8 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

9. Class 9. ESA P Portfolio MD Trust Certificate

(a) *Classification:* Class 9 consists of the ESA P Portfolio MD Trust Certificate.

(b) *Treatment:* The holder of the ESA P Portfolio MD Trust Certificate shall retain the ESA P Portfolio MD Trust Certificate.

(c) *Voting:* Class 9 is not impaired. The holder of the Equity Interests in Class 9 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

10. Class 10. ESA P Portfolio MD Borrower Interests

(a) *Classification:* Class 10 consists of the ESA P Portfolio MD Borrower Interests.

(b) *Treatment:* Each holder of ESA P Portfolio MD Borrower Interests shall retain its ESA P Portfolio MD Borrower Interests.

(c) *Voting:* Class 10 is not impaired. The holders of the Equity Interests in Class 10 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

11. Class 11. ESA Canada Properties Interests

(a) *Classification:* Class 11 consists of the ESA Canada Properties Interests.

(b) *Treatment:* Each holder of ESA Canada Properties Interests shall retain its ESA Canada Properties Interests.

(c) *Voting:* Class 11 is not impaired. The holders of the Equity Interests in Class 11 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

12. Class 12. ESA Canada Properties Borrower Interests

(a) *Classification:* Class 12 consists of the ESA Canada Properties Borrower Interests.

(b) *Treatment:* Each holder of ESA Canada Properties Borrower Interests shall retain its ESA Canada Properties Borrower Interests.

(c) *Voting:* Class 12 is not impaired. The holders of the Equity Interests in Class 12 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

13. Class 13. ESH/TN Properties Membership Interest

(a) *Classification:* Class 13 consists of the ESH/TN Properties Membership Interest.

(b) *Treatment:* The holder of the ESH/TN Properties Membership Interest shall retain its ESH/TN Properties Membership Interest.

(c) *Voting:* Class 13 is not impaired. The holder of the Equity Interest in Class 13 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

14. Class 14. ESH/ESA General Partnership Interests

(a) *Classification:* Class 14 consists of the ESH/ESA General Partnership Interests.

(b) *Treatment:* Each holder of ESH/ESA General Partnership Interests shall retain its ESH/ESA General Partnership Interests.

(c) *Voting:* Class 14 is not impaired. The holders of the Equity Interests in Class 14 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

15. Class 15. Other Existing Equity

(a) *Classification:* Class 15 consists of the Other Existing Equity.

(b) *Treatment:* No distribution shall be made under the Plan in respect of the Other Existing Equity. On the Effective Date, the certificates that previously evidenced ownership of the Other Existing Equity shall be cancelled and shall be null and void, the holders thereof shall no longer have any rights in respect of the Other Existing Equity, and such certificates shall not evidence any rights under the Plan.

(c) *Voting:* Class 15 is impaired. The holders of the Other Existing Equity in Class 15 are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

F. ACCEPTANCE, REJECTION AND REVOCATION OR WITHDRAWAL OF THE PLAN

1. Impaired Classes to Vote

Each holder of a Claim on the Record Date in an impaired Class, other than those Classes that are deemed to reject the Plan, shall be entitled to vote to accept or reject the Plan, in its sole and absolute discretion, subject to applicable law.

2. Acceptance by Class of Claims

An Impaired class of Claims shall be deemed to accept the Plan if (a) holders (other than any holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the holders (other than any holder designated under Section 1126(e) of the Bankruptcy Code) of more than one half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. Classes 1, 7, 8, 9, 10, 11, 12, 13 and 14 are not impaired under the Plan and, therefore are conclusively presumed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code.

3. Nonconsensual Confirmation

In the event that any Class of Claims entitled to vote shall not accept the Plan by the requisite statutory majority required by Section 1129(a) of the Bankruptcy Code, the Debtors reserve the right to (a) request that the Bankruptcy Court confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code with respect to such non-accepting Class, in which case the Plan shall constitute a motion for such relief, or (b) amend the Plan in accordance with Section 13.1 hereof.

4. Revocation or Withdrawal

(a) **Right to Revoke.** The Plan may be revoked or withdrawn prior to the Confirmation Date by the Debtors, in their sole and absolute discretion.

(b) **Effect of Withdrawal or Revocation.** If the Plan is revoked or withdrawn prior to the Confirmation Date, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims or defenses or any admission or statement against interest by any Debtor, the Creditors' Committee, the Investors or any other Person or to prejudice in any manner the rights of the Debtors, the Creditors' Committee, the Investors or any Person in any further proceedings involving any Debtor.

5. Amendment of Plan

The Plan may be altered, amended or modified by the Debtors, in consultation with the Investors, before or after the Confirmation Date, as provided in section 1127 of the Bankruptcy Code; *provided*, however, that no such alterations, amendments or modifications that are material shall be made without the consent of the Investors, which shall not be unreasonably withheld. A holder of an Allowed Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder.

6. Amendment of Plan Documents

From and after the Effective Date, the authority to amend, modify, or supplement the Plan Supplement, the Exhibits to the Plan Supplement and the Exhibits to the Plan and any documents attached to such Plan Supplement, Exhibits to the Plan Supplement and Exhibits to the Plan shall be as provided in such Plan Supplement, Exhibits to the Plan Supplement and Exhibits to the Plan and their respective attachments.

G. **TRANSACTIONS TO BE CONSUMMATED UNDER THE PLAN AND CERTAIN CORPORATE AND SECURITIES LAW MATTERS**

1. Transactions to be Consummated Under the Plan

(a) **Substantive Consolidation.** The Plan is premised upon the substantive consolidation of the Debtors for all purposes related thereto, including, without limitation, for purposes of voting, confirmation and distribution. On and after the Effective Date, the Debtors and their Estates shall be deemed merged and (i) all assets and liabilities of the Debtors shall be treated for purposes of the Plan as though they were merged, (ii) all guarantees of the Debtors of payment, performance or collection of obligations of any other of the Debtors shall be eliminated and cancelled, (iii) all joint obligations of two or more of the Debtors and all multiple Claims against such entities on account of such joint obligations, shall be considered a single Claim against the Debtors, and (iv) any Claim filed against any of the Debtors shall be deemed filed against the consolidated Debtors and shall be one Claim against and a single obligation of the consolidated Debtors.

(b) **Distributions to Certificate Holders**

A. If Class 2 votes to accept the Plan, and Class 2 is, therefore, entitled to the treatment set forth in Section 4.2(b)(i) of the Plan, the New Securities shall be distributed by the

Trustee as follows, *provided*, however, that distributions to InvestorCo shall be made in accordance with Section 6.2(a)(xii) of the Plan:

- (1) Holders of Class A1 Mortgage Certificates. Each holder of a Class A1 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A1 Mortgage Notes.
- (2) Holders of Class A2 Mortgage Certificates. Each holder of a Class A2 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A2 Mortgage Notes.
- (3) Holders of Class A3 Mortgage Certificates. Each holder of a Class A3 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A3 Mortgage Notes.
- (4) Holders of Class A4 Mortgage Certificates. Each holder of a Class A4 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A4 Mortgage Notes.
- (5) Holders of Class B- F Mortgage Certificates. Each holder of a Class B - F Mortgage Certificate, shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to the Class of Mortgage Certificates of which such holder is a member pursuant to the Plan, subject to adjustment for the New Unsecured Note Election), and (B) on the Initial Distribution Date, other than NewCo as holder of the Investor Certificates, its Pro Rata Share (calculated as such holder's Pro Rata Share of the aggregate amount of all Class B - F Mortgage Certificates) of 408,097 NewCo Common Interests (with such number of NewCo Common Interests representing approximately 34.073% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).
- (6) Holders of Class G Mortgage Certificates. Each holder of a Class G Mortgage Certificate shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to holders of Class G Mortgage Certificates, subject to adjustment for the New Unsecured Note Election)), and (B) on the Initial Distribution Date, its Pro Rata Share of 62,385 NewCo Common Interests (with such number of NewCo Common Interests representing approximately 5.209% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).
- (7) Holders of Class H Mortgage Certificates. Each holder of a Class H Mortgage Certificate shall receive its Pro Rata Share of 32.4% of the New H - M Rights.

- (8) Holders of Class J Mortgage Certificates. Each holder of a Class J Mortgage Certificate shall receive its Pro Rata Share of 20.6% of the New H - M Rights.
 - (9) Holders of Class K Mortgage Certificates. Each holder of a Class K Mortgage Certificate shall receive its Pro Rata Share of 29.4% of the New H - M Rights.
 - (10) Holders of Class L Mortgage Certificates. Each holder of a Class L Mortgage Certificate shall receive its Pro Rata Share of 14.7% of the New H - M Rights.
 - (11) Holders of Class M Mortgage Certificates. Each holder of a Class M Mortgage Certificate shall receive its Pro Rata Share of 2.9% of the New H - M Rights.
 - (12) InvestorCo. In accordance with Section 4.2(b) of the Plan, on the Initial Distribution Date, the New Securities to be distributed to InvestorCo on account of its ownership of the Investor Certificates, which shall be determined by reference to Schedule 1.2(a) of the Investment and Standby Purchase Agreement, but subject to the adjustment as provided in Section 1.3 thereof, shall be directly distributed by NewCo to InvestorCo.
- B. If Class 2 votes to reject the Plan, and Class 2 is, therefore, entitled to the treatment set forth in Section 4.2(b)(ii) of the Plan, the New Alternate Notes shall be distributed by the Trustee to the holders of the Class A1 – E Mortgage Certificates (including NewCo as holder of the Investor Certificates) and the holders of the Class F Mortgage Certificates as follows:
- (1) Holders of Class A1 – E Mortgage Certificates. Each holder of a Class A1 - E Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the New Alternate Notes (calculated as such holder’s Pro Rata Share of the aggregate principal amount of the New Class A1-E Mortgage Certificates).
 - (2) Holders of Class F Mortgage Certificates. Each holder of a Class F Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the Class F Alternate Note Proportion of the New Alternate Notes.
- C. If Class 4 votes to accept the Plan and, in accordance with Section 4.4(b) of the Plan, receives its Pro Rata Share of the New A Warrants, the New A Warrants shall be distributed by the holder of the Mortgage Facility Deficiency Claim as follows:
- (1) Holders of Class G Mortgage Certificates. Each holder of a Class G Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 15.0% of the New A Warrants.
 - (2) Holders of Class H Mortgage Certificates. Each holder of a Class H Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 27.5% of the New A Warrants.
 - (3) Holders of Class J Mortgage Certificates. Each holder of a Class J Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 17.5% of the New A Warrants.

- (4) Holders of Class K Mortgage Certificates. Each holder of a Class K Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 25.0% of the New A Warrants.
- (5) Holders of Class L Mortgage Certificates. Each holder of a Class L Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 12.5% of the New A Warrants.
- (6) Holders of Class M Mortgage Certificates. Each holder of a Class M Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 2.5% of the New A Warrants.

(c) **Creation of NewCo**

- A. *Certificate of Formation.* The NewCo Certificate of Formation shall be filed with the Delaware Secretary of State on or before the Effective Date substantially in the form of the NewCo Certificate of Formation and shall, *inter alia*, include a provision prohibiting the issuance of non-voting equity securities in accordance with section 1123(a)(6) of the Bankruptcy Code. Pursuant to the Plan:
- (1) Provided that Class 2 accepts the Plan, NewCo Common Interests comprising 38.218% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall be issued to InvestorCo on the Effective Date immediately after the consummation of the issuance described in clause (3) below. In the event that Class 2 rejects the Plan, NewCo Common Interests comprising 100% of the total issued NewCo Common Interests as of the Effective Date (assuming that none of the New A Warrants or New B Warrants have been exercised as of the Effective Date) shall be issued to InvestorCo on the Effective Date immediately after the consummation of the issuance described in clause (3) below;
 - (2) Provided that Class 2 accepts the Plan, NewCo Common Interests representing 22.5% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall be issued in connection with the Rights Offering on the Effective Date immediately after the consummation of the issuance described in clause (3) below. In the event that Class 2 rejects the Plan, the Rights Offering shall be terminated, canceled or otherwise not effectuated and all Rights and any exercise of any Right shall be canceled and be null and void and no NewCo Common Interests shall be issued in connection with the Rights Offering;
 - (3) Provided that Class 2 accepts the Plan, NewCo Common Interests representing 39.282% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall

be issued to the holders of the Class B – G Mortgage Certificates in accordance with the Plan. In the event that Class 2 rejects the Plan, except for NewCo Common Interests issued to InvestorCo on account of the Investment, no NewCo Common Interests shall be issued to holders of Class B – G Mortgage Certificates;

- (4) Additional NewCo Common Interests, in an amount to be agreed upon by the Debtors and the Investors, shall be reserved for issuance under the NewCo Management Incentive Plan;
 - (5) Provided that Class 4 accepts the Plan, New A Warrants to acquire NewCo Common Interests shall be allocated to the holders of Class G-M Mortgage Certificates, with such NewCo Common Interests representing 10% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election);
 - (6) Provided that Class 5 accepts the Plan and Class 4 does not accept the Plan, New A Warrants to acquire NewCo Common Interests shall be allocated to holders of Allowed General Unsecured Claims with such NewCo Common Interests representing up to 10% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election, subject to adjustment for the cash election in accordance with Section 4.6(b)) of the Plan; and
 - (7) As provided in Section 6.14 of the Plan, in the event BHAC and NewCo enter into a BHAC IP Transfer Agreement, New B Warrants to acquire NewCo Common Interests shall be allocated to BHAC, with such NewCo Common Interests representing 2.5% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election); and
- B. *Operating Agreement.* The NewCo Operating Agreement shall be adopted substantially in the form to be included in the Plan Supplement, and shall be deemed to become valid, binding and enforceable in accordance with its terms on the Effective Date. Each holder of NewCo Common Interest shall be bound by the terms of the NewCo Operating Agreement without the need for execution by any party thereto other than NewCo.
- C. *Registration Rights.* Pursuant to the terms of the Registration Rights Agreement substantially in the form to be included in the Plan Supplement, InvestorCo shall be entitled to certain registration rights as set forth therein.
- (d) **Corporate Reorganization Actions**

On or as soon as practicable after the Effective Date, the Debtors and/or NewCo, as applicable, shall take such actions as may be or become necessary to effectuate the following, all of which shall be authorized and approved in all respects, in each case without further action being required under applicable law, regulation, order, or rule (including, without limitation, any action by the board of directors, stockholders, partners or members of any Debtor or the Board of Managers or members of NewCo):

- A. the NewCo Certificate of Formation will be filed with the Secretary of State of the State of Delaware effecting the formation of NewCo;
- B. 100% of the New Debtor Equity of the Tier 1 Debtors shall be issued to NewCo; and
- C. the Equity Interests of each of the Tier 2 Debtors, the ESH/ESA General Partnership Interests and the ESH/TN Properties Membership Interests shall remain outstanding and unimpaired.

In consideration for the Investors' investments in NewCo, through InvestorCo, and NewCo's issuance of the New Mortgage Notes, the equity interests in Classes 7 through 14 shall remain unimpaired in order to maintain the current structure between the Tier 1 Debtors and Tier 2 Debtors, which Debtors shall all be directly or indirectly held by NewCo.

(e) Management of NewCo

On the Effective Date, the Board of Managers of NewCo shall consist of seven (7) individuals and will be comprised as follows: (a) the chief executive officer of NewCo, (b) four (4) individuals designated by the Investors, and (c) two (2) independent managers, both of whom shall be reasonably acceptable to the Investors. Each of the members of such Board of Managers shall be identified in the Plan Supplement and shall serve in accordance with the NewCo Certificate of Formation and the NewCo Operating Agreement. If Class 2 votes in favor of the Plan, the NewCo Operating Agreement will provide, among other things, that so long as the Investors continue to hold, directly or indirectly, through InvestorCo or otherwise, at least 25.0% of the NewCo Common Interests or 50.0% of the NewCo Common Interests issued directly or indirectly, through InvestorCo or otherwise, to the Investors on the Effective Date, the Investors shall continue to have the right to elect four (4) members of the Board of Managers. The officers of NewCo shall be identified in the Plan Supplement and shall serve in accordance with the NewCo Certificate of Formation, the NewCo Operating Agreement, Section 11.5 of the Plan and the requirements of applicable laws.

(f) Management Incentive Plan

In connection with the implementation of the Plan and the restructuring transactions contemplated thereby, it is currently contemplated that HVM will be the management company for the reorganized Debtors' properties through the taxable real estate investment trust subsidiaries ("**TRS**") of NewCo from and after the Effective Date. The current management agreements with HVM will be assumed by, or assumed and assigned to, the TRS (or a newly formed TRS, wholly owned either directly or indirectly by NewCo, or designated by an existing Debtor that is a TRS) and modified on the Effective Date pursuant to Section 11.5 of the Plan. It is also contemplated that on the Effective Date, HVM will enter into new employment agreements and other compensation arrangements, which shall be reasonably acceptable to the Investors, with the executive officers and senior management of HVM, who shall be reasonably acceptable to the Investors, relating to, among other things, compensation, benefits, and

supplemental retirement benefits, which agreements will be mutually agreed to by the Investors and current management.

In addition, it is contemplated that on and after the Effective Date, NewCo shall implement an equity incentive plan, in form and substance reasonably acceptable to the Investors, with shares of NewCo Common Interests being available for issuance thereunder, through a combination of the award of restricted membership interests and granting of equity-based awards, including, without limitation, restricted membership interests, deferred membership interests and options (the “**NewCo Management Incentive Plan**”). The identity of recipients, amount of grants, and other terms, including, without limitation, vesting, will be determined by the NewCo Board of Managers. The NewCo Management Incentive Plan will be designed to provide additional compensation to the executive officers and senior management of HVM for their management services. Payments and distributions with respect to the NewCo Management Incentive Plan will be made to HVM through and pursuant to and in connection with the management agreements with HVM that are being assumed by, or assumed and assigned to, the TRS (or a newly formed TRS, wholly owned either directly or indirectly by NewCo, or designated by an existing Debtor that is a TRS) and modified on the Effective Date pursuant to Section 11.5 of the Plan to provide for, among other things, such payments.

(g) **Cancellation of Existing Debt Securities**

As of the Effective Date, all notes, agreements, certificates and securities evidencing the Mortgage Facility, the Class A1 – A4 Mortgage Certificates, the Class B – M Mortgage Certificates, the ESA UD Mortgage Claim, the General Unsecured Claims, and the rights of the holders thereof thereunder, shall be cancelled and deemed null and void and of no further force and effect, and the holders thereof shall have no rights, and such notes, agreements, certificates and securities shall evidence no rights, except the right to receive the Distributions provided under the Plan.

(h) **Terms of the New Debt**

A. *New Mortgage Loan*

Pursuant to the Plan, the Trustee for the Trust established pursuant to the Trust and Servicing Agreement, as lender of the Mortgage Debt, will be entitled to receive, among other distributions as discussed herein, and subject to certain elections described in the Plan, (i) \$2,547,297,223 in principal amount of a new four-tranche first lien loan (the “**New Mortgage Loan**”) for distribution to Certificate holders, which principal amount is subject to adjustment based on the Confirmation Date. The issuer of the New Mortgage Loan will be NewCo and its controlled asset holding subsidiary entities (the “**Borrowers**”). The New Mortgage Loan will be substantially in the form included in the Plan Supplement. The New Mortgage Loan will be guaranteed by all existing and future direct and indirect the subsidiaries of the Borrowers (the “**New Guarantors**”).

The New Mortgage Loan will have an initial term of five (5) years, with an option for two additional 1 year extensions (subject to a 0.50% fee for each extension). The principal amount of the New Mortgage Loan will be payable at final maturity. Interest on the New Mortgage Loan shall be payable in Cash on a quarterly basis, in arrears, at the rates set forth below:

Tranche	Projected Amount ⁵	Rate (Years 1-5)	Rate (Year 6)	Rate (Year 7)
Certificate A1/ Tranche A	\$550.382 million	L + 1.20545%	L + 1.70545%	L + 2.20545%
Certificate A2/ Tranche B	\$400.946 million	6.67995%	7.17995%	7.67995%
Certificate A3/ Tranche C	\$801.908 million	7.22995%	7.72995%	8.22995%
Certificate A4/ Tranche D	\$794.061 million	7.72995%	8.22995% ⁰	8.72995%

The principal amount of the New Mortgage Loan distributable to the Trustee will be adjusted downward to take into account Adequate Protection Payments made to the Trustee during the Chapter 11 Cases that were used by the Trustee to make principal payments to certain senior classes of Certificates. The New Mortgage Loan will be a senior obligation of the Borrowers and will rank senior in right of payment to all of the future subordinated indebtedness of the Borrowers. Further, Tranche A shall be senior in priority to Tranche B, Tranche C and Tranche D; Tranche B shall be senior in priority to Tranche C and Tranche D; and Tranche C shall be senior in priority to Tranche D. The obligations of the Borrowers under the New Mortgage Loan will be guaranteed in the manner set forth above on a senior basis by each of the New Guarantors and will rank senior in right of payment to any of the New Guarantors' future subordinated indebtedness.

The Borrowers' obligations under the New Mortgage Loan will be secured by a first priority security interest, and a collateral package consistent with that under the Mortgage Loan Agreement and other Loan Documents (the "*New Collateral*").

B. *New Unsecured Notes Election.*

For those holders of Certificates eligible to receive NewCo Common Interests under the Plan, the Plan provides for the New Unsecured Notes Election, which is a mechanism by which such holders may elect to receive unsecured debt instead of NewCo Common Interests.

- (1) New Unsecured Notes. Pursuant to the Plan, Holders of Certificates in Classes B through G will have the right to elect to receive unsecured debt in lieu of the NewCo Common Interests. The Borrowers will issue New Unsecured Notes in an aggregate amount of up to \$225,000,000 to holders of Certificates in Classes B through G that elect to receive such New Unsecured Notes in lieu of all or a portion of their respective NewCo Common Interests. The New Unsecured Notes

⁵ Projected as of 6/30/2010; subject to change based on Confirmation Date.

shall have a term of eight (8) years, and bear interest at a rate of 6% per annum, payable in Cash on a semiannual basis, in arrears, and shall be substantially in the form included in the Plan Supplement.

- (2) The Unsecured Notes Election. Provided Class 2 is entitled to the treatment set forth in Section 4.2(b)(i) of the Plan, the holders of Class B – G Mortgage Certificates shall have the right, but not the obligation, to elect to make the New Unsecured Notes Election as further described in Section 4.2(c) of the Plan.
- (3) Election Period. The Election Period shall commence on the Subscription Commencement Date and shall expire on the New Unsecured Notes Election Date. The holder of a Class B – G Mortgage Certificate who intends to make the New Unsecured Notes Election must affirmatively make the New Unsecured Notes Election, in whole or in part, on or prior to the New Unsecured Notes Election Date. Any exercise of the New Unsecured Notes Election after the New Unsecured Notes Election Date shall be null and void and there shall be no obligation to honor any such purported exercise received by the Subscription Agent after the New Unsecured Notes Election Date, regardless of when the documents relating to such exercise were sent.
- (4) Exercise of New Unsecured Notes Election. In order to exercise the New Unsecured Notes Election, each holder of a Class B – G Mortgage Certificate must return a duly completed Election Form to the Subscription Agent on or before the New Unsecured Notes Election Date. If the Subscription Agent for any reason does not receive a given holder's duly completed Election Form on or prior to the New Unsecured Notes Election Date, such holder shall be deemed to have relinquished and waived its right to participate in the New Unsecured Notes Election. The exercise of any New Unsecured Notes Election shall be irrevocable and shall obligate the exercising holder of a Class B – G Mortgage Certificate to receive New Unsecured Notes as reflected in such New Unsecured Notes Election. In order to facilitate the exercise of the New Unsecured Notes Election, on the Subscription Commencement Date, an Election Form will be mailed to each holder of Class B – G Mortgage Certificates together with appropriate instructions for the proper completion, due execution and timely delivery of the Election Form. Each holder of a Class B – G Mortgage Certificate exercising its New Unsecured Note Election shall agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.
- (5) New Unsecured Notes Election Procedures. Notwithstanding anything to the contrary in the Plan, the Debtors and the Investors may mutually agree, without the consent of any holder of a Class B – G Mortgage Certificate, to modify the procedures relating to the New Unsecured Notes Election, or adopt such additional detailed procedures consistent with the provisions of Sections 4.2(c) and 6.9 of the Plan, to administer more efficiently the exercise of the New Unsecured Notes Election.
- (6) Transfer Restriction. The New Unsecured Notes Election is not transferable by any holder of a Class B – G Mortgage Certificate. Any transfer or attempted transfer by a holder of a Class B – G Mortgage Certificate will be null and void,

and no purported transferee will be treated as the holder of, or permitted to exercise, the New Unsecured Notes Election.

- (7) Distribution of the New Unsecured Notes. On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) of the Plan, the Subscription Agent shall distribute the New Unsecured Notes to each holder of a Class B – G Mortgage Certificate that has properly exercised its New Unsecured Notes Election in accordance with Sections 4.2(c) and 6.9 of the Plan.
- (8) Validity of Exercise of New Unsecured Notes Election. All questions concerning the timeliness, viability, form and eligibility of any exercise of the New Unsecured Notes Election shall be determined by the Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld. Subject to the foregoing, the Subscription Agent’s good faith determinations shall be final and binding. The Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld, may waive any defect or irregularity, or permit a defect or irregularity to be corrected within such times as they may determine, or reject the purported exercise of any New Unsecured Notes Election, *provided*, however, that without limiting any other circumstances that could give rise to the Investors’ right to withhold consent to any waiver, permission or rejection specified above, it will be deemed reasonable for Investors to withhold consent to any such waiver, permission or rejection that adversely affects the interests of the Investors. Election Forms shall be deemed not to have been received or accepted until all irregularities have been waived or cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld. The Subscription Agent will use commercially reasonable efforts to give notice to any holder of a Class B – G Mortgage Certificate regarding any defect or irregularity in connection with any purported exercise of the New Unsecured Notes Election by such participant and, may permit such defect or irregularity to be cured within such time as the Subscription Agent, with the consent of the Debtors and the Investors, may determine in good faith to be appropriate; provided, however, that neither the Debtors, the Investors nor the Subscription Agent shall incur any liability for failure to give such notification. Within five (5) days after the New Unsecured Notes Election Date, the Subscription Agent shall file with the Bankruptcy Court a report regarding the results of the New Unsecured Notes Election including a list identifying all those Election Forms deemed rejected due to defect or irregularity.

(i) **Terms of New Warrants**

Pursuant to the terms of the Plan, assuming Class 4 votes to accept the Plan, each holder of Class G-M Mortgage Certificates will receive that holder’s proportionate share of warrants (the “*New A Warrants*”) for NewCo Common Interests. The New A Warrants will, among other things, (i) entitle the holders thereof to acquire a total of 10% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (I) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (II) none of the holders of any of the Class B - G Mortgage Certificates have elected to receive New Unsecured Notes in lieu of NewCo Common Interests), (ii) be exercisable for the period beginning the day after the Effective Date and ending on the fifth (5th)

anniversary of the Effective Date, (iii) have an exercise price initially equal to \$1,150 per NewCo Common Interest being acquired, and will compound at an annual rate of 20%, subject to adjustment for dilution as provided in the New A Warrants and (iv) be exercisable on a cashless basis.

Pursuant to the terms of the Plan and as further discussed in Section (q) hereof, NewCo shall seek to enter into the BHAC IP Transfer Agreement with BHAC, pursuant to which, on or immediately following the Effective Date, BHAC shall transfer to NewCo the BHAC IP in consideration for the issuance to BHAC of warrants (the “*New B Warrants*”, and together with the New A Warrants, the “*New Warrants*”). The New B Warrants will, among other things, (i) entitle BHAC to acquire a total of 2.5% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (I) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (II) none of the holders of any of the Class B - G Mortgage Certificates have elected to receive New Unsecured Notes in lieu of NewCo Common Interests), (ii) be exercisable for the period beginning the day after the Effective Date and ending on the fifth (5th) anniversary of the Effective Date, (iii) have an exercise price initially equal to \$1,150 per NewCo Common Interest being acquired, and will compound at an annual rate of 20%, subject to adjustment for dilution as provided in the New B Warrants and (iv) be exercisable on a cashless basis.

The New Warrants will each be evidenced by a warrant certificate and will be subject to the terms and conditions of the New Warrants and the New Warrant Agreement to be included in the Plan Supplement. New Warrants may be exercised at any time prior to 5:00 p.m., New York time, on the expiration date listed on the applicable warrant certificate. A holder of New Warrants may exercise such warrants by surrendering the applicable warrant certificate, with the form of election to purchase properly completed and executed, together with payment of the applicable exercise price as specified in the New Warrants, at the principal corporate trust office of a new warrant agent to be designated (the “*Warrant Agent*”). In the event that upon any exercise of New Warrants, the number of warrants exercised shall be less than the total number of New Warrants evidenced thereby, the Borrowers shall issue to the holder thereof or his assignee a new warrant certificate evidencing the number of New Warrants not exercised.

Warrant certificates when surrendered at the principal corporate trust office of the Warrant Agent (with respect to New Warrants) by the registered holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged in the manner and subject to the limitations provided in the New Warrants, but without payment of any service charge, for another certificate or certificates of like tenor evidencing in the aggregate a like number of New Warrants.

Upon due presentation for registration of transfer of a warrant certificate at the office of the Warrant Agent, a new warrant certificate or certificates shall be issued to the transferee(s) in exchange for such certificate(s), subject to the limitations provided in the applicable New Warrant, without charge except for any tax or governmental charge imposed in connection therewith.

The Warrant Agent may deem and treat the registered holder(s) of New Warrants as the absolute owner(s) of a warrant certificate (notwithstanding any notation of ownership or other writing thereon), for the purpose of any exercise thereof, of any distribution to the holder(s) thereof or for any other purpose, and neither the Warrant Agent nor the Borrowers shall be affected by any notice to the contrary. Neither the New Warrants nor the related warrant certificates entitle any holder thereof to any rights as a member of NewCo.

(j) **Terms of the NewCo Common Interests**

Pursuant to the Plan, and assuming that Class 2 accepts the Plan, on the Effective Date, NewCo Common Interests, representing 34.073% of the outstanding NewCo Common Interests (assuming that (i) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (ii) none of the holders of any of the Class B - G Mortgage Certificates made the Unsecured Notes Election), will be issued to the holders of Class B-F Mortgage Certificates, excluding the Investors, and 62,385 NewCo Common Interests representing 5.209% of the NewCo Common Interests (assuming that (i) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (ii) none of the holders of any of the Class B - G Mortgage Certificates made the Unsecured Notes Election), will be issued to the holders of Class G Mortgage Certificates. The balance of the NewCo Common Interests will be subsequently issued pursuant to the Rights Offering and the Investment and Standby Purchase Agreement, and/or reserved for distribution under the Management Incentive Plan or upon exercise of the New A Warrants or the New B Warrants.

Each NewCo Common Interest will have the same rights, preferences, privileges, interests and attributes, and will be subject to the same limitations, as every other NewCo Common Interest. Each NewCo Common Interest will entitle the holder to one vote with respect to each matter on which the holders of NewCo Common Interests are entitled to vote, including the terms of the Operating Agreement.

The holders of the NewCo Common Interests will be entitled to receive such distributions in Cash, stock, evidence of indebtedness or property of NewCo as may be declared from time to time by the Board of Managers of NewCo out of funds legally available therefor and, upon any liquidation, dissolution or winding up of affairs, will be entitled to participate pro rata (at the same rate per NewCo Common Interest) in all distributions to the holders of NewCo Common Interests.

(k) Investment

If Class 2 accepts the Plan, on the Effective Date immediately after the consummation of the issuance described in Section 6.3(a)(C) of the Plan, and subject to the terms of the Investment and Standby Purchase Agreement, InvestorCo shall (i) purchase the NewCo Common Interests from NewCo as set forth in the Investment and Standby Purchase Agreement for Cash in the aggregate amount of \$225,000,000, and (ii) contribute to NewCo the Investor Certificates (together with the payment specified in clause (i) above. Assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates has made the Unsecured Notes Election, the NewCo Common Interests that InvestorCo shall receive on the Effective Date as a result of the Investment will comprise approximately 38.218% of the total issued and outstanding NewCo Common Interests as of the Effective Date, with such amount of NewCo Common Interests to be increased by the amount of NewCo Common Interests that would have been provided to those holders of Class B – G Mortgage Certificates who make the New Unsecured Notes Election as if such holders had instead not made the New Unsecured Notes Election. InvestorCo may elect to deliver on the Effective Date less than or more than the amount of Certificates beneficially owned by the Investors as reflected on Schedule 1.2a to the Investment and Standby Purchase Agreement, in which case (i) the amount of NewCo Common Interests purchased by InvestorCo will be adjusted by an amount commensurate with the amount of NewCo Common Interests to be issued in respect of the Certificates delivered on the Effective Date and (ii) the amount of NewCo Common Interests to be distributed in accordance with Section 4.2(b)(i) of the Plan will be adjusted to reflect such change in the amount of NewCo Common Interests being purchased by and distributed directly to InvestorCo in exchange for the Investor Certificates.

If Class 2 does not accept the Plan, on the Effective Date immediately after the consummation of the issuance described in Section 6.3(a)(C) of the Plan, and subject to the terms of the Investment and Standby Purchase Agreement, InvestorCo shall (i) purchase NewCo Common Interests from NewCo for Cash in the aggregate amount of \$320,000,000, and (ii) contribute to NewCo their Investor Certificates held as of the Effective Date. The NewCo Common Interests that InvestorCo shall receive on the Effective Date as a result of the Investment will comprise 100% of the total issued and outstanding NewCo Common Interests as of the Effective Date.

If the Investors determine in their sole and absolute discretion that NewCo shall have an alternate corporate or organizational structure, form or identity, the structure of the Investment contemplated in Section 6.7 of the Plan shall be changed to the extent necessary to effectuate any such alternate structure, form or identity.

(l) **Rights Offering**

The Plan contemplates the contribution of \$225,000,000 of new equity capital to NewCo, in exchange for approximately 22.50% of the NewCo Common Interests (subject to certain adjustments) in the form of a Rights Offering being made available to holders of Class B-M Mortgage Certificates. The Rights Offering will be backstopped by InvestorCo, which has committed to purchase all NewCo Common Interests offered in the Rights Offering that are not otherwise subscribed for, in exchange for a commitment payment equal to \$22,500,000 (the “*Commitment Payment*”). The Commitment Payment will be waived by the Investors and will not be paid however, if the Plan is consummated. The terms of the Rights Offering are set forth below and in Section 6.8 of the Plan.

- A. *The Rights.* Each Rights Holder, including the Investors or InvestorCo (to the extent the Investors have contributed the Investor Certificates to InvestorCo), shall have the right to purchase one NewCo Common Interest for each Right that the Rights Holder holds at a purchase price that is equal to the Subscription Price. Rights Holders have the right, but not the obligation, to participate in the Rights Offering as provided herein. The number of NewCo Common Interests distributed to the Rights Holders will be rounded down to the nearest whole number. No fractional NewCo Common Interests will be issued in respect of fractional Rights and holders of fractional Rights will not be entitled to receive any Cash in lieu thereof.
- B. *Subscription Period.* The Rights Offering shall commence on the Subscription Commencement Date and shall expire on the Expiration Date. Each Rights Holder intending to participate in the Rights Offering must affirmatively elect to exercise its Rights, in whole or in part, on or prior to the Expiration Date. On the Effective Date, all Unsubscribed Rights shall be acquired by the Investors through InvestorCo in accordance with and subject to the terms and conditions contained in the Investment and Standby Purchase Agreement and the Plan, and any exercise of such Rights after the Expiration Date (other than the purchase of NewCo Common Interests by the Investors through InvestorCo pursuant to the Investment and Standby Purchase Agreement) shall be null and void and there shall be no obligation to honor any such purported exercise received by the Subscription Agent after the Expiration Date, regardless of when the documents relating to such exercise were sent.
- C. *Subscription Price.* Each Rights Offering Participant choosing to exercise its Rights, in whole or in part, shall pay the aggregate Subscription Price for the NewCo Common Interests that such Rights Offering Participant is to acquire pursuant to the exercise of the

Rights not later than the Rights Offering Payment Date. If the Effective Date does not occur, the Subscription Price that each Rights Offering Participant has paid shall be refunded to such Rights Offering Participant without payment of any interest.

- D. *Exercise of Rights.* In order to exercise the Rights, each Rights Holder must: (i) return a duly completed and executed Rights Certificate to the Subscription Agent on or before the Expiration Date in which the Rights Holder represents that it is (A) a “qualified institutional buyer” as such term is defined in Rule 144A under the Securities Act, (B) an “accredited investor” as such term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, or (C) a non-US person purchasing under Regulation S under the Securities Act, and (ii) pay to the Subscription Agent (on behalf of the Debtors) on or before the Rights Offering Payment Date such Rights Holder’s aggregate Subscription Price in accordance with the wire instructions set forth on the Rights Certificate or by bank or cashier’s check delivered to the Subscription Agent as specified in the Rights Certificate. If the Subscription Agent for any reason does not receive from a given Rights Holder (i) a duly completed and executed Rights Certificate on or prior to the Expiration Date, and (ii) immediately available funds in an amount equal to such holder’s aggregate Subscription Price on or prior to the Rights Offering Payment Date, such Rights Holder shall be deemed to have relinquished and waived its right to participate in the Rights Offering and any NewCo Common Interests that such Rights Holder could have purchased upon its valid exercise of the Rights shall be deemed to be Unsubscribed Rights. The payments made in accordance with the Rights Offering shall be deposited and held by the Subscription Agent in the Escrow Account, which account will be maintained for the purpose of holding the money for administration of the Rights Offering until the Effective Date. The Subscription Agent shall not use such funds for any other purpose or release such funds to the Debtors prior to such date and shall not encumber or permit such funds to be encumbered with any lien or similar encumbrance.

Each Rights Offering Participant may exercise all or any portion of such holder’s Rights pursuant to the instructions set forth in the Rights Certificate, but the exercise of any Rights shall be irrevocable and shall obligate the exercising Rights Offering Participant to purchase the applicable NewCo Common Interests and to pay the aggregate Subscription Price for such NewCo Common Interests on or prior to the Rights Offering Payment Date. In order to facilitate the exercise of the Rights, on the Subscription Commencement Date, a Rights Certificate will be mailed to each Rights Holder together with appropriate instructions for the proper completion, due execution and timely delivery of the Rights Certificate. Each Rights Offering Participant exercising its Rights shall agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.

- E. *Rights Offering Procedures.* Notwithstanding anything contained in the Plan to the contrary, the Debtors and the Investors may mutually agree, without the consent of any Rights Holder, to modify the procedures relating to the Rights Offering or adopt such additional detailed procedures consistent with the provisions of Section 6.8 of the Plan to more efficiently administer the exercise of the Rights.
- F. *Transfer Restriction; Revocation.* The Rights are not transferable by any Rights Holder, other than the Investors and InvestorCo, *provided*, however, that any transfer of Rights by any Investor shall not relieve such Investor of its obligation pursuant to Section 6.8(g) of the Plan. Any transfer or attempted transfer by a Rights Holder, other than the Investors and InvestorCo, will be null and void, and no purported transferee will be treated as the

holder of, or permitted to exercise, any Rights. Once a Rights Offering Participant has properly exercised its Rights, such exercise will not be permitted to be revoked.

- G. *Rights Offering Backstop.* Subject to the terms and conditions in the Investment and Standby Purchase Agreement, each of the Investors has agreed, severally and not jointly, to cause InvestorCo to subscribe for and purchase on the Effective Date, at the aggregate Subscription Price therefor, its allocated percentage of Unsubscribed Rights as set forth in the Investment and Standby Purchase Agreement as of the Effective Date. The Debtors shall notify or cause the Subscription Agent to notify the Investors, on each Friday during the period from the Subscription Commencement Date to the Expiration Date (and any extensions thereof) and on each business day during the five (5) business days prior to the Expiration Date (and any extensions thereof), or more frequently if requested by either of the Investors, of the aggregate number of Rights known by the Debtors or the Subscription Agent to have been validly exercised as of the close of business on the preceding business day or the most recent practicable time before such request, as the case may be. Within one (1) business day after the Expiration Date and in any event no later than four (4) Business Days prior to the Effective Date, the Debtors and the Subscription Agent shall give the Investors by e-mail a certificate by an executive officer of the Debtors in .pdf format setting forth either (i) in the event that there are Unsubscribed Rights, (x) a true and accurate calculation of the number of NewCo Common Interests elected to be purchased by the Rights Offering Participants pursuant to validly exercised Rights and the aggregate Subscription Price therefor, and (y) a Purchase Notice, or (ii) in the absence of any Unsubscribed Rights, a Satisfaction Notice. The Debtors shall provide the Investors with a certification by the Subscription Agent of the Unsubscribed Rights and a written backup to the determination of the Unsubscribed Rights as any Investor may reasonably request. InvestorCo shall pay to the Subscription Agent, by wire transfer in immediately available funds on or prior to the Effective Date, Cash in an amount equal to the aggregate Subscription Price attributable to the amount of Unsubscribed Rights. On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) of the Plan, InvestorCo will purchase only such number of Unsubscribed Rights as are listed in the Purchase Notice, without prejudice to the rights of the Investors to later seek an upward or downward adjustment if the number of Unsubscribed Rights in such Purchase Notice is inaccurate.
- H. *Distribution of the NewCo Common Interests.* On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) of the Plan, the Subscription Agent shall (i) distribute the NewCo Common Interests to each Rights Offering Participant that has properly exercised its Rights and paid the aggregate Subscription Price for the NewCo Common Interests that such Rights Offering Participant has agreed to purchase, and (ii) distribute the Unsubscribed Rights, if any, to InvestorCo. All NewCo Common Interests shall be delivered with any and all issue, stamp, transfer, sales and use, or similar taxes or duties payable, if any, in connection with such delivery having been duly paid by NewCo. Any unissued fractional NewCo Common Interests underlying a Right, whether caused by the rounding or a Rights Offering Participant's choice not to exercise its Rights in full, will become Unsubscribed Rights to be acquired by InvestorCo on the Effective Date.
- I. *Validity of Exercise of Rights.* All questions concerning the timeliness, viability, form and eligibility of any exercise of Rights shall be determined by the Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not

be unreasonably withheld. Subject to the foregoing, the Subscription Agent's good faith determinations shall be final and binding. The Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld, may waive any defect or irregularity, or permit a defect or irregularity to be corrected within such times as they may determine, or reject the purported exercise of any Rights, *provided*, however, that without limiting any other circumstances that could give rise to the Investors' right to withhold consent to any waiver, permission or rejection specified above, it will be deemed reasonable for the Investors to withhold consent to any such waiver, permission or rejection that adversely affects the interests of the Investors. Rights Certificates shall be deemed not to have been received or accepted until all irregularities have been waived or cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld. The Subscription Agent will use commercially reasonable efforts to give notice to any Rights Offering Participants regarding any defect or irregularity in connection with any purported exercise of Rights by such participant and, may permit such defect or irregularity to be cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld; provided, however, that neither the Debtors, the Investors nor the Subscription Agent shall incur any liability for failure to give such notification. Within five (5) days after the Expiration Date, the Subscription Agent shall file with the Bankruptcy Court a report regarding the results of the Rights Offering including a list identifying all those Rights Certificates deemed rejected due to defect or irregularity.

J. *Cancellation of Rights Offering.* In the event that Class 2 does not accept the Plan and the Rights Offering is terminated, cancelled or otherwise not effectuated, all Rights and any exercise of any Right shall be cancelled and be null and void and there shall be no obligation to honor any such purported exercise. In such event, (i) the aggregate Subscription Price paid by any Rights Offering Participant shall be refunded to such Rights Offering Participant without payment of interest and (ii) the Investors' commitment to cause InvestorCo to subscribe for and purchase the Unsubscribed Rights on the Effective Date shall terminate and be null and void.

K. *Alteration of Rights Offering.* If the Investors determine in their sole and absolute discretion that NewCo shall have an alternate corporate or organizational structure, form or identity, the structure of the Rights Offering contemplated in Section 6.8 of the Plan shall be changed to the extent necessary to effectuate any such alternate structure, form or identity.

(m) **Additional Information Regarding the Investment and Standby Purchase**

Agreement

The terms and conditions of the Investment and backstop commitment are set forth in the Investment and Standby Purchase Agreement.

A. *Commitment Payment and Expenses*

The Investment and Standby Purchase Agreement, which was approved by the Bankruptcy Court on March __, 2010, provides that the Investors are entitled to receive the Commitment Payment in the amount of \$22,500,000; *provided*, that the Investors will waive payment of the

Commitment Payment subject to the occurrence of the Effective Date and the closing of the Investment and Rights Offering. The Commitment Payment shall not be payable in the event the Investment and Standby Purchase Agreement is terminated as a result of the Investors' breach of their obligations thereunder, or in the event that certain closing conditions set forth in the Investment and Standby Purchase Agreement cannot be satisfied. The Investment and Standby Purchase Agreement provides the Debtors with some flexibility on the payment date if the conditions to the Plan or the Investment and Standby Purchase Agreement cannot be satisfied.

In addition, the Investment and Standby Purchase Agreement provides that the Debtors will reimburse or pay, as the case may be, all reasonable costs, fees, expenses, disbursements and other charges incurred by each Investor or its affiliates in connection with or relating to Investment and Standby Purchase Agreement, the Investment, the Rights Offering or the Plan, judicial and regulatory proceedings related to such transactions and the Chapter 11 Cases. The Investors' expenses shall not be payable in the event the Investment and Standby Purchase Agreement is terminated as a result of the Investors' breach of their obligations thereunder. In the event certain closing conditions set forth in the Investment and Standby Purchase Agreement cannot be satisfied and the Investment and Standby Purchase Agreement is terminated, the maximum amount of the expenses payable by the Debtors shall be six million dollars (\$6,000,000). If the Commitment Payment is payable, then any expenses exceeding five million dollars (\$5,000,000) paid by the Company shall be credited against the Commitment Payment until the Commitment Payment is reduced to zero. Thereafter, NewCo, the Debtors, HVM and HVM Manager shall have no obligation to pay or reimburse any additional expenses, provided, however, for these purposes, all fees and expenses incurred by the Investors and their advisors in connection with any litigation relating to the Investment and Standby Purchase Agreement, the Investment, the Rights Offering, or the Plan shall be excluded from the calculation of expenses and shall be paid or reimbursed by NewCo, the Debtors, HVM and HVM Manager at all times in accordance with Section 5.2 of the Investment and Standby Purchase Agreement.

Thus, there is a risk that if the Plan is not confirmed by May 28, 2010 or if certain other conditions have not been satisfied, then the Investors would have the right to terminate the Investment and Standby Purchase Agreement, and the Debtors' estates would be liable to pay the Commitment Payment and the reimbursable expenses to the Investors.

B. *Closing Conditions and Termination Rights*

The obligation of the Investors to purchase the NewCo Common Interests as set forth in the Investment and Standby Purchase Agreement will be conditioned upon satisfaction of certain conditions (each of which may be waived by the Investors), including, without limitation, the following:⁶

- (a) The structure of the transactions contemplated by the Investment and Standby Purchase Agreement and the structure and organization of NewCo on and after the Effective Date (including the implementation of any alternate structure, form or identity of NewCo and the corresponding changes to the structure of the Rights Offering and Investment Transactions, determined by the Investors in accordance with Section 1.1 of the Investment and Standby Purchase Agreement, and the characterization for tax purposes of any entity as a partnership, a corporation or a real estate investment trust); the utilization or

⁶ For a full list of closing conditions, see Section 13 of the Investment and Standby Purchase Agreement.

preservation of any tax attributes or benefits of NewCo (including the tax basis at which NewCo holds the assets of the business); and the resolution of any tax issues or potential liability, shall be reasonably acceptable to the Investors. The treatment of any current, contingent or potential liability in the Confirmation Order shall be acceptable to the Investors in their sole and absolute discretion.

- (b) As of the Effective Date, (i) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all equity or other ownership interests in the Debtors, (ii) at the Investors' election to be made in their sole and absolute discretion, (y) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all equity or other ownership interests in HVM Manager and HVM or (z) HVM Manager shall have resigned as manager of HVM and shall have appointed NewCo Manager as successor manager of HVM, (iii) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to all Company Intellectual Property and BHAC/Homestead Intellectual Property, and (iv) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all of the business assets. Pursuant to the Membership Interest Purchase Agreement dated as of February 23, 2010 (the "**HVM Manager Agreement**"), the Debtors, the Investors and HVM Manager agreed on the terms for the transfer of HVM Manager or the appointment of Investors' designee as the manager of HVM. Thus, this condition to the Investment and Standby Purchase Agreement will be satisfied on the Effective Date provided that the parties comply with their respective obligations under the HVM Manager Agreement. Further, the Debtors shall have entered into an Intellectual Property Transfer Agreement with respect to the BHAC IP (see Section VII.F). Thus, this condition to the Investment and Standby Purchase Agreement has also been satisfied. With respect to the Homestead IP, on April __, 2010, the Debtors filed their motion to abandon the Homestead IP to NewCo, as required by the Plan. The Debtors expect that a hearing with respect to their abandonment motion will be held on April __, 2010, and that the Court will grant the relief requested, thereby enabling the Debtors to satisfy the Investors' condition.
- (c) The Investors shall have approved, which approval shall not to be unreasonably withheld, prior to filing with the Bankruptcy Court: (i) this Disclosure Statement; (ii) the order of the Bankruptcy Court authorizing and approving, among other things this Disclosure Statement and the solicitation of acceptances with respect to the Plan (the "**Solicitation Order**"); (iii) a Confirmation Order that is consistent in all material respects with the provisions of the Plan and the Investment and Standby Purchase Agreement; and (iv) any amendments or supplements to any of the foregoing, including, without limitation, the New Mortgage Loan. As of the date hereof, the Investors have already approved this Disclosure Statement [and the Solicitation Order.] As a result, the only operative conditions in this category are the Investors' approval of the Confirmation Order and of the terms of the New Mortgage Loan and any amendments of the Plan, the Disclosure Statement or certain other

documents. The Debtors fully expect that they will be able to satisfy these conditions.

- (d) The Confirmation Order approving the Plan (including, without limitation, all Plan Documents) shall be in form and substance approved by the Investors and shall be a Final Order.
- (e) The conditions to the occurrence of the Effective Date of the Plan shall have been satisfied or waived by the parties in accordance with the Plan.
- (f) To the extent such payments are due and payable, NewCo Manager shall cause HVM to pay any severance payments pursuant to the terms of the applicable Change in Control Agreements as in effect as of the date any such severance payments become due and payable, in the amounts set forth in the Change in Control Letter; *provided*, that any such payments shall be made only to the extent that the applicable Change in Control Agreement is in effect and/or has not been superseded by any New Employment Agreement between the applicable employee and NewCo or HVM. NewCo or the Debtors shall have resolved any other claims of former executive officers, or executive officers that were employed after the Commencement Date and that have resigned or been terminated from the Debtors prior to the Effective Date, on terms reasonably acceptable to the Investors or otherwise ordered by the Bankruptcy Court; *provided*, that, to the extent any such claims are to be resolved by the Debtors, any such resolution may only be effectuated with the prior consent of the Investors, which consent is not to be unreasonably withheld.
- (g) No Material Adverse Change shall have occurred.
- (h) In order to ensure that a substantial portion of the funds invested by the Investors are available to be used by NewCo to operate the business, fund capital expenses, and pay debt service under the New Debt Securities, the Investors and the Debtors negotiated a closing condition that provides for a certain cash balance on the Effective Date in the consensual or cram-down scenarios, whichever is applicable. In the event the Committed Proceeds equal (i) four-hundred fifty million dollars (\$450,000,000), as of the Effective Date, the Cash Balance of NewCo shall not be less than four-hundred twenty million dollars (\$420,000,000) less the amount of any cash distributions to the holders of General Unsecured Claims (as referenced in the Plan), (ii) three-hundred twenty million dollars (\$320,000,000), as of the Effective Date, the Cash Balance of NewCo shall not be less than two-hundred ninety million dollars (\$290,000,000) less the amount of any cash distributions to the holders of General Unsecured Claims (as referenced in the Plan).
- (i) Due to the Investors' concern that NewCo be a viable entity that will be able to service its debt as of the Effective Date, the Investment and Standby Purchase Agreement contains parameters for the principal amount of and interest rate of the New Alternate Mortgage that would be issued to the Certificate Holders. If the principal amount of the New

Alternate Mortgage is greater than \$3.2 billion or the interest rate is greater than 5.34%, then the Investors shall have the right to terminate the Investment and Standby Purchase Agreement.

The Investment and Standby Purchase Agreement also sets forth a timetable by which the Effective Date must occur. The commitment of the Investors to purchase the NewCo Common Interests will terminate and all of the obligations of the Debtors (other than the obligations of the Debtors to pay the reimbursable expenses and the Commitment Payment and to satisfy their indemnification obligations set forth in the Investment and Standby Purchase Agreement) will be of no further force or effect, at the election of and upon the giving of written notice of termination by the Investors, in the event that any of the following occurs, each of which may be waived in writing by the Investors⁷:

- (a) the hearing on confirmation of the Plan does not occur prior to May 28, 2010;
- (b) the Confirmation Order, in form and substance acceptable to the Investors, has not been entered by the Bankruptcy Court within three (3) Business Day following the hearing on confirmation of the Plan;
- (c) the Effective Date does not occur on the fifteenth (15th) day following entry of the Confirmation Order by the Bankruptcy Court;
- (d) the withdrawal, amendment, modification of, or the filing of a pleading seeking to amend or modify, the Plan, this Disclosure Statement or any document related to the Plan or Disclosure Statement (including, without limitation, any motion, notice, exhibit, appendix or order) by the Debtors, which withdrawal, amendment, modification or filing is inconsistent with the Investment and Standby Purchase Agreement, except as reasonably agreed in writing by the Investors;
- (e) the filing by the Debtors of any motion or other request for relief seeking (i) to voluntarily dismiss any of the Chapter 11 Cases, (ii) conversion of any of the Chapter 11 Cases to chapter 7 of the Bankruptcy Code, or (iii) appointment of a trustee pursuant to Section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases;
- (f) the entry of an order by the Bankruptcy Court (a) dismissing any of the Chapter 11 Cases, (b) converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, (c) appointing a trustee pursuant to Section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases; or (d) making a finding of fraud, dishonesty, or misconduct by any officer or director of NewCo, the Debtors, HVM or HVM Manager;
- (g) a breach by NewCo, the Debtors, HVM or HVM Manager of any of their obligations under the Investment and Standby Purchase Agreement that

⁷ For a full list of termination rights, see Section 13.1 of the Investment and Standby Purchase Agreement. The Debtors have not listed those termination rights which are no longer applicable because the relevant milestone has been achieved.

is not cured within three (3) Business Days after receipt of written notice thereof to the Investors;

- (h) one or more of the conditions precedent to occurrence of the Effective Date or to the obligations of the Investors set forth in the Investment and Standby Purchase Agreement becomes impossible to satisfy on or before the Effective Date; and
- (i) at any time after the occurrence of a Material Adverse Change.

(n) Effectuating Documents and Further Transactions

On or before the Effective Date, and without the need for any further order or authority, the Debtors shall file with the Bankruptcy Court or execute, as appropriate, such agreements and other documents that are in form and substance satisfactory to the Investors as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Each of the officers of the Debtors and NewCo is authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any notes or securities issued pursuant to the Plan.

(o) Allocation of Plan Distributions Between Principal and Interest

To the extent that any Allowed General Unsecured Claims entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount of the Claim (as determined for federal income tax purposes) first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

(p) Surrender and Cancellation of Instruments

Each holder of an instrument evidencing a Claim shall surrender such instrument to NewCo or, in the case of the holders of any Mortgage Certificates (excluding the Class of B – M Mortgage Certificates held by InvestorCo which shall be surrendered to NewCo), to the Trustee, and NewCo (or the Trustee in the case of the holders of any Mortgage Certificates, excluding the Class of B - M Mortgage Certificates held by InvestorCo) shall distribute or cause to be distributed to the holder thereof the appropriate Distribution (if any) provided hereunder. At the option of NewCo (in its sole and absolute discretion), no Distribution hereunder shall be made to or on behalf of any holder of such Claim unless and until such instrument is received or the unavailability of such instrument is reasonably established to the satisfaction of NewCo. In accordance with Section 1143 of the Bankruptcy Code, any such holder of such a Claim that fails to surrender or cause to be surrendered such instrument or to execute and deliver an affidavit of loss and indemnity reasonably satisfactory to NewCo and, in the event that NewCo requests, fails to furnish a bond in form and substance (including, without limitation, amount) reasonably satisfactory to NewCo shall be deemed to have forfeited all rights, claims, and interests and shall not participate in any Distribution under the Plan.

(q) Letters of Credit

At or prior to the Effective Date, in the Debtors' discretion, with the consent of the Investors, (i) the Existing Letters of Credit shall be terminated and any cash collateral provided

thereunder shall be released to the entity that posted such collateral; and (ii) NewCo shall provide any and all letters of credit and related cash collateral necessary to obtain and maintain in effect all such forms of insurance as are customary to operate a business of the size and type of the Debtors; *provided*, however, that the consent of the Investors shall not be required if the condition set forth in Section 13.1(c) of the Investment and Standby Purchase Agreement with respect to the transfer of the BHAC IP has been satisfied.

(r) **Intellectual Property**

A. *BHAC IP Transfer Agreement*

As noted above, BHAC, a non-debtor and owner of 100% of the common stock of ESI, which indirectly owns and operates 552 properties using the Extended Stay Hotels service mark, owns the trademarks for the Extended Stay America, Studio Plus, Crossland, and Extended Stay Deluxe brands, along with minor variations of those names. The BHAC IP is pledged as collateral for the Mortgage Debt. As part of the Debtors' operations, BHAC has issued to each of the Mortgage Borrowers non-exclusive licenses to use the BHAC IP. It is critical for the continued operations of the Debtors that the reorganized Debtors continue to have full, uninterrupted and undiluted use of the BHAC IP. Therefore, the Plan contemplates that all right, title and interest in and to the BHAC IP will ultimately be transferred to NewCo so that the BHAC IP remains in the exclusive control of the reorganized Debtors on and after the Effective Date.

The going-concern valuation of the Debtors provided for in Article IX contemplates that the BHAC IP remains in the exclusive control of the Debtors' enterprise. As such, under the Plan, the holder of the Mortgage Facility Claim is to realize the full value of its security interest in the BHAC IP because such value is imbedded in the value of the debt and securities being distributed to the holder of the Mortgage Facility Claim. In addition, the New Mortgage Loan will be secured by first priority security interests in the BHAC IP.

If NewCo were unable to obtain exclusive control over and use of the BHAC IP, the enterprise value of the Debtors would significantly decrease as there would be no assurances that the reorganized Debtors would be able to operate using the necessary trademarks or that competitors and third parties would not be able to obtain the use of such trademarks, thereby diluting the value of the BHAC IP to NewCo. As such, the enterprise value of the Debtors would be lower, resulting in less value being available for distributions to the holder of the Mortgage Facility Claim. As a result, in the event the BHAC IP is not transferred to NewCo, the recoveries to the holder of the Mortgage Facility Claim would decrease.

In order to effectuate the consensual and expeditious transfer of the BHAC IP to NewCo, under the Plan, the Debtors have entered into an intellectual property transfer agreement (the "***BHAC IP Transfer Agreement***") with BHAC, pursuant to which, on the Effective Date, BHAC shall transfer to NewCo the BHAC IP in consideration for the issuance to BHAC of the New B Warrants. The initial exercise price of each New B Warrant shall be \$1,150 per NewCo Common Interest, with such exercise price compounding annually at a rate of 20.0%, subject to adjustment for dilution as provided in the New B Warrants. In the event that BHAC does not agree to the consensual transfer of all right, title and interest in the BHAC IP to NewCo, BHAC will not receive the New B Warrants. In that situation, the applicable debtors will assume the BHAC License Agreements in accordance with Section 11.1 of the Plan and the holder of the Mortgage Facility Claim shall be deemed to have transferred, assigned and contributed to NewCo its security interest in and all rights and remedies with respect to the BHAC IP in exchange for the distributions to be provided under the Plan. Immediately thereafter, NewCo shall

exercise all such rights and remedies with respect to the BHAC IP in order to foreclose on the BHAC IP and effectuate the transfer of the BHAC IP to NewCo. The BHAC IP will then be pledged to secure the New Mortgage Loan.

B. *Homestead IP*

As noted above, non-debtor DL-DW owns Homestead. The Homestead segment owns and operates 114 hotels under the Homestead Studio Suites brand name, along with minor variations of that name, and operates one hotel in a non-debtor subsidiary under a short-term lease.

Homestead, a Chapter 11 Debtor but not a Debtor included in the Plan, owns the trademarks for Homestead along with minor variations of that name. The Homestead IP is pledged as collateral for the Mortgage Debt. Homestead has issued to each of the Mortgage Borrowers non-exclusive licenses to use the Homestead IP. It is critical for the continued operations of the Debtors that the reorganized Debtors continue to have full, uninterrupted and undiluted use of the Homestead IP. Therefore, the Plan contemplates that all right, title and interest in and to the Homestead IP will ultimately be transferred to NewCo so that the Homestead IP remains in the exclusive control of the reorganized Debtors on and after the Effective Date.

The going-concern valuation of the Debtors provided for in Article IX, contemplates that the Homestead IP remains in the exclusive control of the Debtors' enterprise. As such, under the Plan, the holder of the Mortgage Facility Claim is to realize the full value of its security interest in the Homestead IP because such value is imbedded in the value of the debt and securities being distributed to the holder of the Mortgage Facility Claim. In addition, the New Mortgage Loan will be secured by first priority security interests in the Homestead IP.

If NewCo were unable to obtain exclusive control over and use of the Homestead IP, the enterprise value of the Debtors would significantly decrease as there would be no assurances that the reorganized Debtors would be able to operate using the necessary trademarks or that competitors and third parties would not be able to obtain the use of such trademarks thereby diluting the value of the Homestead IP and NewCo. As such, the enterprise value of NewCo would be less, resulting in less value being available for distributions to holder of the Mortgage Facility Claim. As a result, in the event the Homestead IP is not transferred to NewCo, the recoveries to the holder of the Mortgage Facility Claim would decrease.

In order to maximize the value of the Mortgage Properties and operate the business after confirmation of the Plan, it is necessary for NewCo to own all right, title and interest in and to the Homestead IP following confirmation of the Plan. As the Homestead IP is pledged as collateral securing the Mortgage Debt, which Mortgage Debt far exceeds the value of such Homestead IP, Homestead and its creditors and equity holders do not have any interest in or entitlement to the Homestead IP. To effectuate the transfer of the Homestead IP to NewCo, on or about [April __, 2010], Homestead filed the Homestead IP Abandonment Motion pursuant to which Homestead requested entry of an order authorizing Homestead to abandon all of its right, title and interests in the Homestead IP to NewCo pursuant to section 554 of the Bankruptcy Code.

If the Bankruptcy Court grants the Homestead IP Abandonment Motion, on the Effective Date the Homestead IP shall be deemed abandoned to NewCo, and NewCo shall have all right, title and interest to the Homestead IP. If the Bankruptcy Court does not grant the Homestead IP Abandonment Motion, a sale of the Homestead IP will be conducted under section 363(b) of the Bankruptcy Code prior to the Effective Date of the Plan. In such a sale, NewCo (or the Investors on behalf of NewCo) will make

a bid in the form of the NewCo IP Note, the principal amount of which will reduce the aggregate principal amount of the New Mortgage Notes or the New Alternate Mortgage Notes, as applicable. In the event that NewCo (or the Investors on behalf of NewCo) is the successful bidder at such sale, then, on the Effective Date, all right, title and interest to the Homestead IP shall be sold and transferred to NewCo in exchange for the NewCo IP Note, and NewCo shall issue the NewCo IP Note to Homestead, which NewCo IP Note shall constitute proceeds of the Homestead IP and, accordingly, shall be substituted for the Homestead IP under Homestead's pledge of the Homestead IP in connection with the Mortgage Loan. As a result of these transactions, the holder of the Allowed Mortgage Facility Claim will retain its liens on the proceeds of the sale of the Homestead IP and the aggregate principal amount of the New Mortgage Notes or the New Alternate Notes, as applicable, shall be decreased by an amount equal to the principal amount of the NewCo IP Note. The aggregate amount of debt issued by NewCo under the Plan will not increase.

(s) **Consistent Tax Reporting.** For federal income tax purposes, (i) the distributions described in Section 4.2 of the Plan shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Allowed Mortgage Facility Claim, immediately followed by a distribution of such assets to the holders of the Mortgage Certificates in complete liquidation of the holder of the Allowed Mortgage Facility Claim, followed by a contribution of such assets to NewCo by the holders of the Mortgage Certificates receiving solely NewCo Common Interests, a sale of such assets to NewCo by the holders of Mortgage Certificates receiving only New A Warrants and/or New Debt Securities and a part contribution/part sale of such assets to NewCo by the holders of Mortgage Certificates receiving both NewCo Common Interests and other property, and (ii) the distribution described in Section 4.3 of the Plan shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Allowed ESA UD Mortgage Claim followed by a sale of such assets to NewCo for the New ESA UD Mortgage Note. All parties will be required to report for all federal income tax purposes in a manner consistent with the characterization of the distributions described above.

As soon as possible after the Effective Date, and to the extent required by Section 1060 of the Tax Code, the Board of Managers shall determine the aggregate value of the underlying assets of NewCo as of the Effective Date and the portions of such value that are allocable, respectively, to the New ESA UD Mortgage Note and the various classes of New Equity Securities and New Debt Securities. Such allocation will take into account the relative fair market values of the New Equity Securities, New Debt Securities and the New ESA UD Mortgage Note. The Board of Managers will apprise, in writing, all parties of such aggregate valuation and allocation. The aggregate valuation and allocation shall be used consistently by all parties (including NewCo, the holders of Mortgage Certificates and the holder of the Allowed ESA UD Mortgage Claim) for all federal income tax purposes.

(t) **Issuance of NewCo Common Interests to Investor Affiliates.** The Investors, in their sole discretion, may deliver a written schedule to the Debtors within ten (10) days after entry of the Confirmation Order to designate that some or all of the NewCo Common Interests to be issued to InvestorCo under this Plan be issued in the name of, and delivered to, one or more of their managed funds and/or respective affiliates, so long as such issuance and delivery is in compliance with federal and state securities laws and does not require NewCo to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

In the event that the Investors make the designation described above, the funds managed by the Investors and/or the affiliates of the Investors that are so designated shall have the rights, entitlements and benefits that would otherwise inure to InvestorCo in its capacity as a holder of the Investor Certificates or the NewCo Common Interests as provided in the Plan, including those rights,

entitlements and benefits of InvestorCo specified in Sections 6.2(a)(xii), 6.3(a)(A), 6.3(b), 6.3(c) and 6.5 of the Plan.

2. Securities Law Matters

(a) **New Securities and Rights Offering**

Pursuant to the Plan, NewCo will issue NewCo Common Interests, the New A Warrants, the New B Warrants, Rights and New Unsecured Notes. In order to subscribe for the Rights, the subscriber must represent that it is (A) a “qualified institutional buyer” as such term is defined in Rule 144A under the Securities Act, (B) an “accredited investor” as such term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, or (C) a non-US person purchasing under Regulation S under the Securities Act and provide the other representations, warranties and affirmations required in the Rights Certificate or as set forth in the Rights Offering Procedures.

(b) **Transfer and Securities Law Restrictions**

Section 1145 of the Bankruptcy Code generally exempts from registration under the Securities Act the offer or sale, under a chapter 11 plan of reorganization, of a security of a debtor, of an affiliate participating in a joint plan with the debtor, or of a successor to a debtor under a plan, if such securities are offered or sold in exchange for a claim against, or equity interest in, such debtor or affiliate or principally in such exchange and partly for cash. In reliance upon this exemption, the NewCo Common Interests, the New A Warrants, the NewCo Common Interests issuable upon exercise of the New A Warrants, the Rights and the New Unsecured Notes (the “**1145 Securities**”) to be issued to holders of claims against the Debtors generally will be exempt from the registration requirements of the Securities Act, and state and local securities laws. Accordingly, such securities may be resold without registration under the Securities Act or other federal securities laws pursuant to the exemption provided by Section 4(1) of the Securities Act, unless the holder is an “underwriter” with respect to such securities, as that term is defined in Section 1145(b) of the Bankruptcy Code. In addition, such securities generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states. However, recipients of new securities issued under the Plan are advised to consult with their own legal advisors as to the availability of any such exemption from registration under state law in any given instance and as to any applicable requirements or conditions to such availability.

Section 1145(b) of the Bankruptcy Code defines “underwriter” for purposes of the Securities Act as one who (a) purchases a claim with a view to distribution of any security to be received in exchange for the claim other than in ordinary trading transactions, (b) offers to sell securities issued under a plan for the holders of such securities, (c) offers to buy securities issued under a plan from persons receiving such securities, if the offer to buy is made with a view to distribution, or (d) is a control Person of the issuer of the securities as defined in Section 2(a)(11) of the Securities Act.

The Debtors believe that (i) the Unsubscribed Interests issued pursuant to the Investment and Standby Purchase Agreement (the “**Investor Securities**”) and (ii) the New B Warrants and the NewCo Common Interests issuable upon exercise of the New B Warrants (collectively, the “**New B Securities**”) will be exempt from the registration requirements of the Securities Act, pursuant to Section 4(2) of the Securities Act, as transactions by an issuer not involving any public offering, and equivalent exemptions in state securities laws.

For Persons deemed to be “underwriters” who receive 1145 Securities pursuant to the Plan including control Person underwriters, as referred to in clause (d) above and Persons who receive Investor Securities or New B Securities (collectively, the “Restricted Holders”), resales of such securities would not be exempted by Section 1145 of the Bankruptcy Code from registration under the Securities Act or other applicable law. Restricted Holders may, however, be able, at a future time and under certain conditions described below, to sell securities without registration pursuant to the resale provisions of Rule 144 or other applicable exemptions under the Securities Act.

Under certain circumstances, holders of 1145 Securities deemed to be “underwriters” or holders of the Investor Securities or New B Securities may be entitled to resell their securities pursuant to the limited safe harbor resale provisions of Rule 144 of the Securities Act, to the extent available, and in compliance with applicable state and foreign securities laws. Generally, Rule 144 of the Securities Act provides that persons who hold securities received in a transaction not involving a public offering or who are affiliates of an issuer who resell securities will not be deemed to be underwriters if certain conditions are met. These conditions vary depending on whether the seller is a holder of restricted securities or a control Person of the issuer and whether the security to be sold is an equity security or a debt security. The conditions include required holding periods in certain cases, the requirement that current public information with respect to the issuer be available, a limitation as to the amount of securities that may be sold in certain cases, the requirement in certain cases that the securities be sold in a “brokers transaction” or in a transaction directly with a “market maker” and that, in certain cases, notice of the resale be filed with the Securities and Exchange Commission. The Debtors cannot assure, however, that adequate current public information will exist with respect to any issuer of 1145 Securities and therefore, that the safe harbor provisions of Rule 144 of the Securities Act will be available. Pursuant to the Plan, certificates evidencing 1145 Securities received by Restricted Holders, Investor Securities and the New B Warrants will bear a legend substantially in the form below:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT AND SAID LAWS OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS THEREOF.

IN VIEW OF THE COMPLEX, SUBJECTIVE NATURE OF THE QUESTION OF WHETHER A RECIPIENT OF SECURITIES MAY BE AN UNDERWRITER OR AN AFFILIATE OF NEWCO, THE DEBTORS MAKE NO REPRESENTATIONS CONCERNING THE RIGHT OF ANY PERSON TO TRADE IN SECURITIES TO BE DISTRIBUTED PURSUANT TO THE PLAN. ACCORDINGLY, THE DEBTORS RECOMMEND THAT POTENTIAL RECIPIENTS OF SECURITIES CONSULT THEIR OWN COUNSEL CONCERNING WHETHER THEY MAY FREELY TRADE SUCH SECURITIES.

Parties who believe they may be underwriters as defined in Section 1145 of the Bankruptcy Code and other Restricted Holders are advised to consult with their own legal advisors as to the availability of the exemption provided by Rule 144 or other applicable exemptions.

(c) Listing

As of the Effective Date, neither the NewCo Common Interests nor the New Warrants will be listed for trading on any stock exchange or trading system and the Debtors will not file any reports with the SEC. Consequently, the trading liquidity of the NewCo Common Interests and New Warrants will be limited as of the Effective Date. The future liquidity of the trading markets for NewCo Common

Interests and New Warrants will depend, among other things, upon the number of holders of such securities, whether such securities become listed for trading on an exchange or trading system at some future time and whether the Debtors begin to file annual and quarterly reports with the SEC.

H. TREATMENT OF DISPUTED CLAIMS

1. Objections to Claims; Prosecution of Disputed Claims

NewCo shall object to the allowance of Claims filed with the Bankruptcy Court with respect to which NewCo disputes liability in whole or in part. All objections that are filed and prosecuted by NewCo as provided in the Plan shall be litigated to Final Order by NewCo. Unless otherwise provided in the Plan or ordered by the Bankruptcy Court, all objections by NewCo to Claims shall be served and filed no later than ninety (90) days after the Effective Date.

2. Distributions on Account of Disputed Claims

Notwithstanding Article IV of the Plan, a Distribution shall only be made by NewCo to the holder of a Disputed Claim when, and to the extent that, such Disputed Claim becomes Allowed. No interest shall be paid on account of Disputed Claims that later become Allowed except to the extent that payment of interest is required under section 506(b) of the Bankruptcy Code. No Distribution shall be made with respect to all or any portion of any Disputed Claim pending the entire resolution thereof in the manner prescribed by Section 7.1 of the Plan. To the extent that any funds remain reserved for payment of Allowed Claims after the final resolution of all Disputed Claims (and all such Disputed Claim that are subsequently Allowed are fully satisfied in accordance with the terms of the Plan), such funds shall revert to and be fully vested in NewCo.

I. DISTRIBUTIONS

1. Distributions under the Plan

Whenever any Distribution to be made under the Plan shall be due on a day other than a Business Day, such Distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on the date due.

2. Timing of Distributions under the Plan

Except for Distributions made on the Initial Distribution Date, any Distribution to be made by any Debtor or, the Disbursing Agent or NewCo pursuant to the Plan shall be deemed to have been timely made if made within ten (10) days after the time therefore specified in the Plan. No interest shall accrue or be paid with respect to any Distribution as a consequence of such Distribution not having been made on the Effective Date.

3. Distributions with Respect to General Unsecured Claims

Distributions with respect to Class 5 shall only be made on a Distribution Date; provided, however, that, if a Claim in Class 5 becomes Allowed subsequent to the Initial Distribution Date, NewCo may, in its sole discretion, make a Distribution with respect to such Claim prior to a Distribution Date. For purposes of treatment and Distribution under the Plan, all General Unsecured Claims held by a Creditor shall be aggregated and treated as a single Claim. At the written request of the Disbursing Agent, any Creditor holding multiple General Unsecured Claims shall provide to the Disbursing Agent a

single address to which any Distributions shall be sent. At the written request of any Creditor holding multiple General Unsecured Claims made to the Disbursing Agent within thirty (30) days prior to a Distribution Date, such Creditor shall receive an itemized statement of the General Unsecured Claims for which the Distribution is being made.

4. Distributions with Respect to the Mortgage Facility Claim.

The amount of the New Debt Securities, New Equity Securities and/or Rights to which any holder of Certificates is entitled shall be determined based upon such holder's share of principal and accrued interest on the Certificates as of the Confirmation Date. As a result, although the Debtors will still be entitled to use cash collateral consistent with the terms of the Cash Collateral Order, they shall be relieved of the obligation to make Adequate Protection Payments (as defined in the Cash Collateral Order) as of the Confirmation Date.

5. Calculations Subject to Adjustment

The allocation of the New Debt Securities, New Equity Securities and/or Rights to various classes and subclasses of Claims under the Plan is based on a projected Confirmation Date of June 30, 2010, and is subject to adjustment based on the actual Confirmation Date.

6. Disbursing Agent

Unless otherwise provided therein, all distributions under the Plan shall be made by NewCo as Disbursing Agent or such other entity designated by NewCo with the written consent of the Investors, as a Disbursing Agent. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court, and, in the event that a Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by NewCo.

7. Record Date

As of the close of business on the Record Date, the various transfer and claims registers for each of the classes of Claims as maintained by the Debtors or their respective agents shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims. The Debtors and NewCo shall have no obligation to recognize any transfer of the Claims occurring after the close of business on the Record Date. The Debtors and the Disbursing Agent shall be entitled to recognize and deal hereunder only with those record holders stated on the transfer ledgers as of the close of business on the Record Date, to the extent applicable.

8. Manner of Payment under the Plan

Unless the Person receiving a payment agrees otherwise, any payment in Cash to be made by the Debtors or NewCo shall be made, at the election of the Debtors or NewCo (as the case may be), by check drawn on a domestic bank or by wire transfer from a domestic bank.

9. Hart-Scott-Rodino Compliance

Any NewCo Common Interests to be distributed under the Plan to any Person required to file a Premerger Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvement Act of

1976, as amended, shall not be distributed until the notification and waiting periods applicable under such Act to such Person shall have expired or been terminated.

10. Fractional NewCo Common Interests or Other Distributions

Notwithstanding anything to the contrary contained herein, no fractional NewCo Common Interests shall be distributed, and no Cash payments of fractions of cents will be made. Fractional dollars shall be rounded down to the nearest whole dollar. Fractional NewCo Common Interests shall be rounded down to the nearest whole unit. No Cash will be paid in lieu of such fractional NewCo Common Interests or dollars.

11. Distribution of Unclaimed Property

Any Distribution under the Plan that is unclaimed after one hundred eighty (180) days following the date such property is distributed shall be deemed not to have been made and shall be transferred to NewCo, free and clear of any claims or interests of any Entities, including, without express or implied limitation, any claims or interests of any governmental unit under escheat principles. Nothing contained herein shall affect the discharge of the Claim with respect to which such Distribution was made, and the holder of such Claim shall be forever barred from enforcing such Claim against NewCo or the Debtors, or NewCo's or the Debtors' assets, estate, properties, or interests in property.

J. CONDITIONS PRECEDENT

1. Conditions Precedent to the Effective Date

The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

(a) the Bankruptcy Court shall have entered a Confirmation Order with respect to the Plan in form and substance approved by the Investors, and such Confirmation Order shall be non-appealable, shall not have been appealed within fourteen (14) calendar days of entry or, if such Confirmation Order is appealed, shall not have been stayed pending appeal, and there shall not have been entered by any court of competent jurisdiction any reversal, modification or vacation, in whole or in part, of such Confirmation Order;

(b) all actions, documents, and agreements necessary to implement the Plan, including, without limitation, all actions, documents, and agreements necessary to implement the corporate reorganization, the Investment and the Rights Offering (as described in Sections 6.6 through 6.8 of the Plan), shall have been effected or executed;

(c) the Debtors shall have received all authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents that are determined by the Debtors to be necessary to implement the Plan and that are required by law, regulation, or order;

(d) the NewCo Certificate of Formation shall have been filed with the Secretary of State of the State of Delaware and the NewCo Operating Agreement shall be in place;

(e) the Registration Rights Agreement shall be in full force and effect; and

(f) all of the conditions to the closing that are contained in Section 13 of the Investment and Standby Purchase Agreement shall have been satisfied or waived.

The conditions precedent specified above (with the exception of subsection (a) as it relates to the entry of the Confirmation Order), may be waived in whole or in part by the Debtors with the prior consent of the Investors. Subject to the foregoing, any such written waiver of a condition precedent set forth in this Section may be effected at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate the Plan. Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If the Debtors decide that one of the foregoing conditions cannot be satisfied, and the occurrence of such condition is not waived in writing by the Debtors with the prior consent of the Investors, then the Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court, at which time the Plan and the Confirmation Order shall be deemed null and void.

2. Effect of Failure of Conditions to Effective Date

If all the conditions to effectiveness and the occurrence of the Effective Date have not been satisfied or duly waived on or before the first Business Day that is more than 120 days after the Confirmation Date, or by such later date as is proposed by the Debtors (with the consent of the Investors, which shall not be unreasonably withheld), then upon motion by the Debtors (after consultation with the Investors) made before the time that all of the conditions have been satisfied or duly waived, the Confirmation Order will be vacated by the Bankruptcy Court; *provided*, however, that notwithstanding the filing of such a motion, the Confirmation Order will not be vacated if each of the conditions to consummation is either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to Section 9.2 of the Plan, the Plan will be null and void in all respects, and (i) no distributions under the Plan shall be made, (ii) the Debtors and all holders of Claims and Equity Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred, (iii) the obligations of the Investors under the Investment and Standby Purchase Agreement will terminate, and (iv) all of the Debtors' obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims by or against the Debtors or any other entity or to prejudice in any manner the rights of the Debtors or any other entity in any further proceedings involving the Debtors.

K. EFFECT OF CONFIRMATION

1. Vesting of Assets

Upon the Effective Date, pursuant to section 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors shall vest in the Reorganized Debtors and/or NewCo free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided in the Plan. From and after the Effective Date, the Reorganized Debtors and/or NewCo may operate the Debtors' business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code.

2. Title to Assets; Discharge of Liabilities

Except as otherwise provided in the Plan, on the Effective Date, title to all assets and properties and interests in property dealt with by the Plan shall vest in the Reorganized Debtors or NewCo, as provided in the Plan, free and clear of all Claims, Equity Interests, encumbrances, and other interests, and the Confirmation Order shall be a judicial determination of discharge of the liabilities of the Debtors arising prior to the Effective Date, except as may be otherwise provided in the Plan.

3. Binding Effect

Subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, the Debtors and such holder's respective successors and assigns, whether or not the Claim or Equity Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

4. Claims Extinguished

As of the Effective Date, any and all alter-ego or derivative claims accruing to the Debtors or Debtors in Possession against present or former officers, managers and directors of the Debtors who were officers, managers or directors of the Debtors at any time during the Chapter 11 Cases shall be extinguished whether or not then pending.

5. Discharge of Claims and Termination of Equity Interests

Except as provided in the Plan, the rights afforded in the Plan and the payments and distributions to be made thereunder shall discharge all existing debts and Claims, and shall terminate all Equity Interests, of any kind, nature, or description whatsoever against or in the Debtors or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims against the Debtors and Equity Interests in the Debtors shall be, and shall be deemed to be, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtors, NewCo, their respective successors or assignees, or any of their respective assets or properties, any other or further Claim or Equity Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of Claim or proof of Equity Interest, and whether or not the facts or legal bases therefore were known or existed prior to the Effective Date. Upon the Effective Date, all such persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Equity Interest in the Debtors.

6. Injunction

Except as otherwise expressly provided in the Plan, all Persons who have held, hold or may hold Claims or Equity Interests including Claims and Equity Interests that have been released pursuant to Section 10.10 of the Plan or are subject to exculpation pursuant to Section 10.9 thereof, and all other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates, are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Equity Interest against the Debtors, the Reorganized Debtors, NewCo or the Released Parties, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors,

the Reorganized Debtors, NewCo or the Released Parties, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors, the Reorganized Debtors, NewCo or the Released Parties, or against the property or interests in property of the Debtors, the Reorganized Debtors, NewCo or the Released Parties, or (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors, the Reorganized Debtors, NewCo, the Released Parties or against the property or interests in property of the Debtors, the Reorganized Debtors NewCo or the Released Parties, with respect to any such Claim or Equity Interest. Such injunction shall extend to any successors of the Debtors, the Reorganized Debtors, NewCo and the Released Parties and their respective properties and interest in properties.

7. **Term of Injunctions or Stays**

Unless otherwise provided, all injunctions or stays arising under or entered during the Bankruptcy Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, other than injunctions issued pursuant to the Plan (including injunctions under Section 10.6 thereof) shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

8. **Injunction Against Interference With Plan of Reorganization**

Upon the entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

9. **Exculpation**

Notwithstanding anything herein to the contrary, as of the Effective Date, none of (i) the Debtors, (ii) NewCo, (iii) the Creditors' Committee and any subcommittee thereof, (iv) BHAC (provided that BHAC has entered into the BHAC IP Transfer Agreement as provided in Section 6.14 of the Plan), (v) the accountants, financial advisors, investment bankers, agents and attorneys for the Debtors, (vi) HVM, (vii) HVM Manager, (viii) the Special Servicer, (ix) the Trustee, (x) HVM Manager Owner, (xi) the Investors, (xii) InvestorCo and (xiii) any present or former director, manager, officer, member, equity holder (and their respective Affiliates), employee, agent, financial advisor, partner, Affiliate, attorney, other professional advisor or representative (and their respective Affiliates) of the persons or parties described in clauses (i) through (xii) of this Section VII.J.9 or of their respective Affiliates (but solely in their capacities as such) shall have or incur any liability for any claim, cause of action or other assertion of liability for any act taken or omitted to be taken since the Commencement Date in connection with, or arising out of, the Bankruptcy Cases, the formulation, dissemination, confirmation, consummation, or administration of the Plan, property to be distributed under the Plan, or any other act or omission in connection with the Bankruptcy Cases, the Plan, the Disclosure Statement or any contract, instrument, document or other agreement related thereto, including, without limitation, the Investment and Standby Purchase Agreement; *provided*, however, that the foregoing shall not affect the liability of any person that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence.

10. **Releases**

Effective as of the Confirmation Date but subject to the occurrence of the Effective Date, and in consideration of (a) the services provided by the present and former directors, managers, officers,

employees, Affiliates, agents, financial advisors, attorneys, and representatives of the Debtors to the Debtors who acted in such capacities after the Commencement Date; (b) the services of the Creditors' Committee and their Affiliates; (c) the services provided by HVM; (d) the services provided by HVM Manager; (e) the services of, and assets contributed by, HVM Manager Owner; and (f) the substantial contribution of InvestorCo, the Investors and their Affiliates: (i) the Debtors and NewCo; (ii) each holder of a Claim or Equity Interest that votes to accept the Plan, or is deemed to accept the Plan, or abstains from voting on the Plan; and (iii) to the fullest extent permissible under applicable law (as such law may be extended or integrated after the Effective Date), each holder of a Claim or Equity Interest that does not vote to accept the Plan, shall release unconditionally and forever each Released Party from any and all Claims, demands, causes of action and the like, relating to the Debtors or their Affiliates, advisors, officers, managers, directors and holders of Equity Interests existing as of the Effective Date or thereafter arising from any act, omission, event or other occurrence that occurred on or prior to the Effective Date, including, without limitation, the Guaranty Claims, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, in law, equity or otherwise.

11. Indemnification Obligations

(a) Notwithstanding anything to the contrary herein, subject to the occurrence of the Effective Date, the obligations of the Debtors as provided in the Debtors' respective certificates of incorporation, bylaws, or other applicable organizational documents, other agreements or law as of the Commencement Date to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of officers who were officers or employees of such Debtors or their respective Affiliates at any time prior to the Effective Date, and who will be officers of the Debtors or NewCo from and after the Effective Date, against any claims, causes of action or obligations whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, shall survive confirmation of the Plan, remain unaffected thereby after the Effective Date and not be discharged, irrespective of whether such indemnification, defense, advancement, reimbursement, exculpation or limitation is owed in connection with an event occurring before or after the Commencement Date.

(b) As of the Effective Date, each Debtor's certificate of incorporation, bylaws or similar organizational documents or other agreement shall provide for the indemnification, defense, reimbursement, exculpation and/or limitation of liability of, and advancement of fees and expenses to officers who were officers of such Debtor or any of its respective Affiliates at any time prior to the Effective Date and who will continue to be officers or employees of the Debtors or NewCo from and after the Effective Date at least to the same extent as the bylaws of such Debtor in effect on the Commencement Date, against any claims or causes of action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, and none of the Debtors shall amend and/or restate its certificate of incorporation, bylaws or similar organizational document or other agreement before or after the Effective Date to terminate or materially adversely affect any of the Debtors' obligations or such officers' rights under Section 10.11(b) of the Plan.

(c) Any Claim based on NewCo's or the Debtors' obligations set forth in Section 10.11 of the Plan shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

12. Avoidance Actions

Other than any releases granted under the Plan, by the Confirmation Order and by Final Order of the Bankruptcy Court, as applicable, from and after the Effective Date, NewCo shall have the right to prosecute any avoidance or equitable subordination or recovery actions under sections 105, 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code that belong to the Debtors or Debtors in Possession. The proceeds of any such avoidance actions shall be paid to NewCo; *provided*, however, that after the amount of proceeds paid to NewCo in respect of such avoidance actions exceeds the sum of the Mortgage Facility Claim and the Mortgage Facility Deficiency Claim, less the amount of the New Mortgage Notes or the New Alternate Notes, as applicable, such proceeds shall be deposited into a reserve account and subject to disposition as determined by further order of the Bankruptcy Court.

13. Retention of Causes of Action/Reservation of Rights

(a) Except as provided in Section 10.11 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or NewCo may have or which NewCo may choose to assert on behalf of the Debtors' estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, (i) any and all Claims against any person or entity, to the extent such person or entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, NewCo, their officers, directors, managers or representatives and (ii) the turnover of any property of the Debtors' estates.

(b) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense which the Debtors had immediately prior to the Commencement Date, against or with respect to any Claim left unimpaired by the Plan. NewCo shall have, retain, reserve, and be entitled to assert all such claims, causes of action, rights of setoff, and other legal or equitable defenses which the Debtors had immediately prior to the Commencement Date fully as if the Bankruptcy Cases had not been commenced, and all of NewCo's legal and equitable rights respecting any Claim left unimpaired by the Plan may be asserted after the Confirmation Date to the same extent as if the Bankruptcy Cases had not been commenced.

14. Limitations on Exculpation and Releases of Representatives

Nothing in Sections 10.10 or 10.11 of the Plan shall (i) be construed to release or exculpate any Person from, or require indemnification of any Person against losses arising from, the fraud, malpractice, criminal conduct, intentional unauthorized misuse of confidential information that causes damages, or ultra vires acts of such Person, or (ii) limit the liability of the professionals of the Debtors, NewCo or the Creditors' Committee to their respective clients pursuant to DR 6-102 of the Code of Professional Responsibility.

L. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. Assumption of Executory Contracts and Unexpired Leases

Any executory contracts or unexpired leases listed in the relevant Exhibit to the Plan Supplement or that have not been rejected by the Debtors with the approval of the Bankruptcy Court and that are not the subject of pending motions to reject on the Confirmation Date, shall be deemed to have been assumed by the applicable Debtor and assigned to NewCo as of the Effective Date, and the Plan

shall constitute a motion to assume and assign such executory contracts and unexpired leases. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such assumptions and assignments pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such assumption and assignment is in the best interest of the Debtors, their estates, and all parties in interest in the Chapter 11 Cases. With respect to each such executory contract or unexpired lease assumed and assigned to NewCo, unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, the dollar amount required to cure any defaults of the applicable Debtor existing as of the Confirmation Date shall be conclusively presumed to be the amount set forth in an Exhibit to the Plan Supplement with respect to such executory contract or unexpired lease. Subject to the occurrence of the Effective Date, any such cure amount shall be treated as an Allowed Administrative Expense Claim under the Plan, and, upon payment of such Allowed Administrative Expense Claim, all defaults of the applicable Debtor existing as of the Confirmation Date with respect to such executory contract or unexpired lease shall be deemed cured.

2. Rejection of Executory Contracts and Unexpired Leases

Any executory contracts or unexpired leases of any Debtor that are set forth in the relevant Exhibit to the Plan Supplement shall be deemed to have been rejected by the applicable Debtor, and the Plan shall constitute a motion to reject such executory contracts and unexpired leases, and NewCo shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such rejections pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such rejected executory contract or unexpired lease is burdensome and that the rejection thereof is in the best interest of the Debtors, their estates, and all parties in interest in the Chapter 11 Cases.

3. Claims Arising from Rejection, Termination or Expiration

Claims created by the rejection of executory contracts or unexpired leases (including, without limitation, the rejection provided in Section 11.2 of the Plan) or the expiration or termination of any executory contract or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on the Debtors no later than thirty (30) days after (i) in the case of an executory contract or unexpired lease that was terminated or expired by its terms prior to the Confirmation Date, the Confirmation Date, (ii) in the case of an executory contract or unexpired lease rejected by the Debtors, the entry of the order of the Bankruptcy Court authorizing such rejection, or (iii) in the case of an executory contract or unexpired lease that is deemed rejected pursuant to Section 11.2 of the Plan, the Confirmation Date. Any rejection claim for which a proof of claim is not filed and served within the time provided herein will be forever barred from assertion and shall not be enforceable against the Debtors, their assets, properties, or interests in property, or NewCo or its estate, assets, properties, or interests in property. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims under the Plan and shall be subject to the provisions of Article VII of the Plan.

4. Insurance Policies and Agreements

Notwithstanding anything contained in the Plan to the contrary, unless specifically rejected by order of the Bankruptcy Court, all of the Debtors' insurance policies and any agreements, documents or instruments relating thereto, are treated as executory contracts under the Plan of Reorganization and will be assumed by and assigned to NewCo, effective as of the Effective Date. Nothing contained in Section 11.4 of the Plan shall constitute or be deemed a waiver of any cause of

action that the Debtors may hold against any entity, including, without limitation, the insurer, under any of the Debtors' policies of insurance.

5. Management Agreements

As of the Effective Date, (i) all existing management agreements between any Debtor that is a taxable real estate investment trust subsidiary ("**TRS**") and HVM, including any related administrative services agreements or G&A Reimbursement Agreements, will be assumed by such Debtors and (ii) all existing management agreements between any Debtor that is not a TRS and HVM will be assumed by such Debtor and assigned to a Debtor that is a TRS (or a newly formed TRS, wholly owned either directly or indirectly by NewCo, that is designated by an existing Debtor that is a TRS); provided that such management agreements to be assumed or assumed and assigned (a) shall be modified or amended by modified agreements that shall be included in the Plan Supplement, which terms shall be acceptable to the Investors and HVM and (b) shall be assumed or assumed and assigned as modified or amended.

M. RETENTION OF JURISDICTION

Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and shall have exclusive jurisdiction over any matter (a) arising under the Bankruptcy Code, (b) arising in or related to the Chapter 11 Cases or the Plan, or (c) to perform any of the following actions:

(a) To hear and determine any and all motions or applications pending on the Confirmation Date for the assumption and/or assignment or rejection of executory contracts or unexpired leases to which any Debtor is a party or with respect to which any Debtor may be liable, and to hear and determine any and all Claims resulting therefrom or from the expiration or termination prior to the Confirmation Date of any executory contract or unexpired lease;

(b) To determine any and all adversary proceedings, applications, motions, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by NewCo after the Effective Date, including, without express or implied limitation, any claims to avoid any preferences, fraudulent transfers, or other voidable transfers, or otherwise to recover assets for the benefit of the Debtors' estates;

(c) To hear and determine any objections to the allowance of Claims arising prior to the Effective Date, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification of any Claim and to allow or disallow any Disputed Claim in whole or in part;

(d) To ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

(e) To issue such orders in aid of execution of the Plan to the extent authorized or contemplated by section 1142 of the Bankruptcy Code;

(f) To consider any modifications of the Plan, remedy any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without express or implied limitation, the Confirmation Order;

(g) To hear and determine all applications for allowances of compensation and reimbursement of expenses of professionals under sections 330, 331 and 503(b) of the Bankruptcy Code and any other fees and expenses authorized to be paid or reimbursed under the Plan;

(h) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with the Plan (and all Exhibits to the Plan Supplement and Exhibits to the Plan) or its interpretation, implementation, enforcement, or consummation;

(i) To the extent that Bankruptcy Court approval is required, to consider and act on the compromise and settlement of any Claim or cause of action by or against any Debtor's estate;

(j) To determine such other matters that may be set forth in the Plan or the Confirmation Order, or that may arise in connection with the Plan, the Disclosure Statement or the Confirmation Order;

(k) To hear and determine matters concerning state, local, and federal taxes, fines, penalties, or additions to taxes for which the Debtors, as Debtors or Debtors in Possession, may be liable, directly or indirectly, in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any request for expedited determination under section 505(b) of the Bankruptcy Code);

(l) To hear and determine all questions and disputes arising out of or relating to the Investment and Standby Purchase Agreement, the Rights Offering, the BHAC IP Transfer Agreement or the HVM Manager Agreement; and

(m) To enter an order or final decree closing the Chapter 11 Cases.

VIII.

FINANCIAL INFORMATION, PROJECTIONS AND VALUATION ANALYSIS

A. HISTORICAL FINANCIAL INFORMATION

1. General

All historical financial information incorporated herein is unaudited and reflects only the Debtor entities that are included in the Plan of Reorganization and certain non-Debtor entities that will comprise NewCo. These entities include HVM, which is consolidated from a financial point of view, given the management arrangement among HVM and the Debtors and that HVM conducts substantially all of its business with the Debtors. For additional commentary, the historical financial information should be read in conjunction with the audited and unaudited historical financial statements of DL-DW. However, since the DL-DW financial statements include entities not included in the Plan, the historical financial information incorporated herein and the DL-DW financial statements do not reconcile.

Extended Stay's operations were significantly impacted by the deterioration of the general economy and the resulting decline in demand for extended stay lodging in the second half of 2008. The 666 Mortgaged Properties experienced a revenue per available room ("**RevPAR**") decline of 19.5% in 2009, primarily driven by a 21% decline in average daily rate ("**ADR**"). Despite the implementation of significant cost savings measures at the property and corporate levels and the long term lodging ("**LTL**") strategy, Adjusted EBITDA declined by approximately 35% in 2009 for the

Debtors. Many of the cost savings implemented and the LTL strategy are temporary in nature, and anticipated to be reversed over the course of 2010.

2. Selected Unaudited Historical Financial Information

The following table sets forth selected unaudited consolidated financial information for NewCo as of and for the fiscal year ended December 31, 2008 and 2009.

	<u>Fiscal Year Ended December 31,</u>	
	<u>2008</u>	<u>2009</u>
	(Dollars in Millions)	
Income Statement Information		
Total revenues, excluding LTL	\$1,001.6	\$791.7
Total operating expenses, excl. D&A & LTL	(527.5)	(498.4)
Incremental LTL EBITDA	-	14.5
Adjuted EBITDA including LTL	474.1	307.9
Net income/(loss)	(667.4)	(360.0)
Balance Sheet Information		
Total assets	\$6,935.8	\$6,546.3
Total liabilities	4,236.1	4,259.5
Total shareholders' equity/(deficit)	2,699.7	2,286.8

THE SELECTED FINANCIAL INFORMATION SHOULD BE READ IN CONJUNCTION WITH THE UNAUDITED HISTORICAL FINANCIALS CONTAINED IN EXHIBIT “F” AND THE UNAUDITED AND AUDITED HISTORICAL FINANCIAL STATEMENTS OF DL-DW. THE SELECTED FINANCIAL INFORMATION PRESENTED HEREIN REPRESENTS HISTORICAL PERSPECTIVE OF THE DEBTOR AND NON-DEBTOR ENTITIES THAT ARE INCLUDED IN THE PLAN. AS SUCH, THE SELECTED FINANCIAL INFORMATION DOES NOT REFLECT THE HISTORICAL FINANCIALS OF DL-DW.

B. CONSOLIDATED CONDENSED PROJECTED FINANCIAL STATEMENTS

1. Responsibility for and Purpose of the Financial Projections

As a condition to confirmation of a plan, the Bankruptcy Code requires, among other things, that the Bankruptcy Court determine that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor. In connection with the development of the Plan, and for purposes of determining whether the Plan satisfies this feasibility standard, the Debtors’ management has analyzed the ability of the Debtors to meet their obligations under the Plan and retain sufficient liquidity and capital resources to conduct their business.

2. Pro Forma Financial Projections

The Debtors believe that the Plan meets the Bankruptcy Code’s feasibility requirement that Plan confirmation is not likely to be followed by liquidation, or the need for further financial reorganization of the Debtors or any successor under the Plan.

In connection with developing the Plan, and to assist each Holder of a Claim in determining whether to accept or reject the Plan, the Debtors have developed a set of financial projections (the “*Financial Projections*”). The Financial Projections are set forth in Exhibit “C” attached hereto.

The Financial Projections are based on a number of significant assumptions as set forth in Exhibit “C”, and while the Debtors have prepared the Financial Projections in good faith and believe the assumptions to be reasonable, it is important to note that the Debtors can provide no assurance that such assumptions will ultimately be realized. The Financial Projections should be read in conjunction with the qualifications contained herein and the risk factors described in the Disclosure Statement.

The Debtors do not, as a matter of course, publish their business plans and strategies or financial projections or anticipated financial position or results of operations. Accordingly, the Debtors do not anticipate that they will, and disclaim any obligation to, furnish updated business plans or financial projections to holders of Claims after the Confirmation Date, or to include such information in documents required to be filed with the Securities and Exchange Commission (if any) or otherwise make such information public.

In connection with the planning and development of the Plan, the Financial Projections were prepared by the Debtors with the assistance of Lazard to present the anticipated impact of the Plan. The Financial Projections assume that the Plan will be implemented in accordance with its stated terms. Since the Financial Projections are based on forecasts of key economic variables such as economic growth rates and the resulting impact on demand for the Debtors’ hotel rooms, future interest rates, capital market conditions, as well as key operational assumptions such as the Debtors’ ability to maintain customer relationships, the ability to win new customer contracts on profitable terms, and the ability to manage costs and growth of the operations, the estimates and assumptions underlying the Financial Projections are inherently uncertain. Though considered reasonable by the Debtors as of the date hereof, the Financial Projections are subject to significant business, economic and competitive uncertainties. Accordingly, such Financial Projections, estimates and assumptions are not necessarily indicative of current values or future performance, which may be significantly less favorable or more favorable than as set forth. The Financial Projections were substantially completed in February 2010, with certain operating projections completed in September 2009.

THE FINANCIAL PROJECTIONS WERE NOT PREPARED WITH A VIEW TOWARD PUBLIC DISCLOSURE OR COMPLIANCE WITH PRACTICES RECOGNIZED TO BE IN ACCORDANCE WITH THE GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, PUBLISHED GUIDELINES OF THE SECURITIES AND EXCHANGE COMMISSION, THE RULES AND REGULATIONS PROMULGATED BY THE SECURITIES AND EXCHANGE COMMISSION REGARDING FINANCIAL PROJECTIONS, OR THE GUIDELINES ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS REGARDING FINANCIAL PROJECTIONS OR FORECASTS. FURTHERMORE, THE FINANCIAL PROJECTIONS HAVE NOT BEEN AUDITED OR REVIEWED BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.

ALTHOUGH EVERY EFFORT WAS MADE TO BE ACCURATE, THE FINANCIAL PROJECTIONS ARE ONLY AN ESTIMATE, AND ACTUAL RESULTS MAY VARY CONSIDERABLY FROM THE FINANCIAL PROJECTIONS. CONSEQUENTLY, THE PROJECTED INFORMATION INCLUDED HEREIN SHOULD NOT BE REGARDED AS A REPRESENTATION BY THE DEBTORS, THE DEBTORS’ ADVISORS, OR ANY OTHER PERSON THAT THE PROJECTED RESULTS WILL BE ACHIEVED. IMPAIRED CREDITORS AND RIGHTS HOLDERS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON THE FINANCIAL PROJECTIONS IN DETERMINING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN OR SUBSCRIBE TO THE RIGHTS OFFERING. ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER FULLY THE RISK

FACTORS SET FORTH IN SECTION IX OF THIS DISCLOSURE STATEMENT BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

The Financial Projections assume that (i) the Plan will be confirmed and consummated in accordance with its terms, (ii) there will be no material change in legislation or regulations, or the administration thereof, that will have an unexpected effect on the operations of the Debtors, (iii) there will be no change in generally accepted accounting principles in the United States that will have a material effect on the reported financial results of the Debtors, (iv) the application of “fresh start” accounting will not materially change the Debtors’ revenue accounting procedures, and (v) there will be no material contingent or unliquidated litigation or indemnity Claims applicable to the Debtors.

To the extent that the assumptions inherent in the Financial Projections are based upon future business decisions and objectives, they are subject to change. In addition, although they are presented with numerical specificity and considered reasonable by the Debtors when taken as a whole, the assumptions and estimates underlying the Financial Projections are subject to significant business, economic and competitive uncertainties and contingencies, many of which will be beyond the control of the Debtors. Accordingly, the Financial Projections are only an estimate and, therefore, necessarily speculative in nature. It can be expected that some or all of the assumptions in the Financial Projections will not be realized and that actual results will vary from the Financial Projections, which variations may be material and are likely to increase over time. The Financial Projections are subjective in many respects, and thus are susceptible to interpretations and periodic revisions based on actual experience and recent developments. No representations can be made as to the accuracy of the Financial Projections or the Debtors’ ability to achieve the projected results. Therefore, the Financial Projections may not be relied upon as a guaranty or other assurance of the actual results that will occur. The inclusion of the Financial Projections herein should not be regarded as an indication that the Debtors consider the Financial Projections to predict future performance reliably. In light of the foregoing, in deciding whether to vote to accept or reject the Plan, holders of Claims are cautioned not to place undue reliance on the Financial Projections and such holders must make their own determination as to the reasonableness of such assumptions and the reliability of the Financial Projections. The Financial Projections should be read together with the information, assumptions, qualifications and footnotes to tables containing the Financial Projections (which include projected statements of operations, projected balance sheets, and projected statements of cash flows) set forth herein and as set forth in Exhibit “C” to this Disclosure Statement and the historical financial information set forth in Section IX.A hereof.

The Financial Projections were not prepared with a view toward general use, but rather for the limited purpose of providing information in conjunction with the Plan. The Financial Projections should be read in conjunction with Article XI herein “ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN” for a discussion of the risks related to the Plan.

The Financial Projections assume a Confirmation Date of June 30, 2010, and as required, the concepts of “fresh start” accounting will be applied for periods after the Effective Date. These principles are contained in the American Institute of Certified Public Accountants Statement of Position 90-7, “Financial Reporting by Entities in Reorganization Under the Bankruptcy Code.” Adoption of “fresh start” accounting requires the determination of the reorganization value of the entity that emerges from bankruptcy. Reorganization value generally approximates fair value of the entity before considering liabilities.

The process of fair valuing assets as part of “fresh start” accounting may result in: (i) changes to the carrying value of assets and liabilities, including property, plant, and equipment or (ii) may result in the creation of new intangibles.

SAFE HARBOR STATEMENT UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. The Financial Projections contain statements which constitute “forward-looking statements” within the meaning of the Securities Act and the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995. “Forward-looking statements” in the Financial Projections include the intent, belief or current expectations of the Debtors and members of their management team with respect to the timing of, completion of and scope of the Plan, the current strategic business plan, bank financing, and debt and equity market conditions and the Debtors’ future liquidity, as well as the assumptions upon which such statements are based, which assumptions are based on their experience and perception of historical trends, current conditions, expected future developments and other factors they believe are appropriate in the circumstances. While the Debtors believe that the expectations are based on reasonable assumptions within the bounds of their knowledge of their business and operations, parties in interest are cautioned that any such forward-looking statements are not guarantees of future performance, and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements. Important factors currently known to the Debtors’ management that could cause actual results to differ materially from those contemplated by the forward-looking statements in the Financial Projections include, but are not limited to, adverse developments in the timing or results of the Debtors’ strategic business plan (including the timeline to emerge from Chapter 11), the ability of the Debtors to retain and attract new customers and maintain favorable relationships with such customers, the Debtors’ liquidity, the difficulty in controlling operating costs, the level and nature of any restructuring and other one-time charges, and the possible negative effects of a change in applicable legislation.

C. VALUATION

THE VALUATION INFORMATION CONTAINED IN THIS SECTION WITH REGARD TO THE DEBTORS IS NOT A PREDICTION OR GUARANTEE OF THE ACTUAL MARKET VALUE THAT MAY BE REALIZED THROUGH THE SALE OF ANY SECURITIES TO BE ISSUED PURSUANT TO THE PLAN.

1. Overview

The Debtors have been advised by their investment banker, Lazard, with respect to the estimated range of values of NewCo as of the date of this Disclosure Statement. This valuation analysis has been used to determine the value of distributions to holders of Allowed Claims pursuant to the Plan and to analyze the relative recoveries to such holders thereunder. The first step of the valuation analysis was to estimate the value of NewCo’s operations on a going concern basis (the “*Enterprise Value*”). The estimated total value available for distribution to holders of Allowed Claims (the “*Reorganization Value*”) consists of the Enterprise Value and net other assets, as described in Section 3 below. The valuation analysis assumes that the Confirmation Date takes place on June 30, 2010 (the “*Assumed Confirmation Date*”) and is based on projections provided by the Debtors’ management (“*Projections*”) for the 664 hotels and the office building in Spartanburg, SC that serve as collateral for the Mortgage Facility and the 2 ESA UD hotels. The Projections assume that intellectual property will be owned by NewCo and that HVM is consolidated from a financial point of view, given the management arrangement among HVM and the Debtors for purposes of the Projections.

Based on the Projections, and solely for purposes of the Plan, Lazard estimates the Enterprise Value of NewCo to be approximately \$2.838 to \$3.610 billion, with a mid-point estimate of \$3.224 billion, as of the Assumed Confirmation Date. For purposes of this valuation, Lazard assumes no material changes that would affect value occur between the date of the Disclosure Statement and the Assumed Confirmation Date. Adding cash that NewCo is projected to have following completion of the

transactions contemplated under the Plan, which includes \$450 million of cash from the Investment and Rights Offering less estimated reorganization and related costs, provides the asset value of NewCo after reorganization (the “**Reorganized Asset Value**”). Reducing Reorganized Asset Value by the estimated debt balance of approximately \$2.552 billion, projected as of the Assumed Confirmation Date, which assumes no New Unsecured Notes Election, implies the value for NewCo equity (the “**Post-Money Equity Value**”). The range of the Post-Money Equity Value and a Black-Scholes analysis were used to calculate a range of estimated value of the New A Warrants and the New B Warrants. The implied equity value available to existing Certificate holders is calculated by giving effect to Black-Scholes value of the New A Warrants and the New B Warrants and the share of NewCo Common Interests allocated to the Investors as a result of the Investment and Rights Offering, excluding the impact of the Investors existing Certificates (the “**Distributable Equity Value**”). The Distributable Equity Value assumes no New Unsecured Notes Election. These values do not give effect to the impact of any shares issued upon exercise of any other warrants, restricted shares or any shares issued upon exercise of options that may be granted in the future, whether under the NewCo Management Incentive Plan or otherwise.

For purposes of evaluating Reorganization Value in the event that Class 2 does not consent to the Plan, the Debtors and Lazard reviewed the enterprise value of NewCo excluding assets that are neither assets of the Debtors nor collateral of the secured creditors of the Debtors. These assets include HVM Manager and the intellectual property relating to the Company’s current brands. On this basis, the Reorganization Value is estimated to be approximately \$2.741 – \$3.512 billion, with a mid-point estimate of \$3.127 billion. The creation of a new management company and associated business interruption, as well as having a restrictive, non-exclusive and non-transferable license to the intellectual property relating to the Company’s current brands, is assumed to impose an incremental cost on NewCo.

The estimates of Enterprise Value, Reorganization Value, Reorganized Asset Value, Pre-Money Equity Value, Post-Money Equity Value and Distributable Equity Value (collectively the “**Valuation Metrics**”) do not constitute an opinion as to fairness from a financial point of view of the consideration to be received under the Plan or of the terms and provisions of the Plan. The following table presents a summary of the estimated Valuation Metrics ranges and Valuation Metrics based on contemplated Enterprise Value of the Plan of \$3.3 billion, which is the basis for distributable value assuming Class 2 consents to the Plan. The \$3.686 billion Reorganized Asset Value based on the Plan represents a premium to the 3.610 billion mid-point of the Reorganized Asset Value estimate.

Summary of Estimated Valuation Metrics (\$ in millions)

	Low	Mid	High	Plan
Enterprise Value	\$2,838	\$3,224	\$3,610	\$3,300
Plus: Net Other Assets	2	2	2	2
Reorganization Value	2,841	3,227	3,612	3,302
Plus: Cash on Emergence	384	384	384	384
Reorganized Asset Value	3,224	3,610	3,996	3,686
Less: Estimated Debt (a)	2,552	2,552	2,552	2,552
Post-Money Equity Value	672	1,058	1,444	1,134
Less: Black-Scholes Warrant Value	5	16	33	21
Net Post-Money Equity Value	667	1,042	1,411	1,112
Distributable Equity Value - No Rights (b)	367	573	776	612
Distributable Equity Value - Rights (c)	N/M	583	868	637

(a) Projected as of the Assumed Confirmation Date, assuming no Unsecured Notes Election.

(b) Implied value of NewCo Common Interests distributable to Certificate holders, assuming no Rights Offering participation.

(c) Implied value of NewCo Common Interests distributable to Certificate holders, assuming full Rights Offering participation, excluding the cost to exercise the Rights.

THE ASSUMED RANGES OF ESTIMATED VALUATION METRICS, AS OF THE ASSUMED CONFIRMATION DATE OF JUNE 30, 2010, REFLECT WORK PERFORMED BY LAZARD ON THE BASIS OF INFORMATION AVAILABLE TO LAZARD AS OF THE DATE OF THIS DISCLOSURE STATEMENT. ALTHOUGH SUBSEQUENT DEVELOPMENTS MAY AFFECT LAZARD'S CONCLUSIONS, NEITHER LAZARD NOR THE DEBTORS HAS ANY OBLIGATION TO UPDATE, REVISE OR REAFFIRM ITS ESTIMATES.

Lazard assumed that the Projections prepared by the management of the Debtors were reasonably prepared in good faith and on a basis reflecting the Debtors' most accurate currently available estimates and judgments as to the future operating and financial performance of NewCo. The estimated Valuation Metrics ranges assume NewCo will achieve its Projections in all material respects, including revenue and EBITDA growth and improvements in EBITDA margins, earnings and cash flow as projected. If the business performs at levels below those set forth in the Projections, such performance may have a materially negative impact on the Valuation Metrics. Conversely, if the business performs at levels above those set forth in the Projections, such performance may have materially positive impact on the Valuation Metrics.

In estimating the Valuation Metrics, Lazard: (a) reviewed certain historical financial information of the Debtors for recent years and interim periods; (b) reviewed certain internal financial and operating data of the Debtors, which data were prepared and provided to Lazard by the Debtors' third party manager, HVM, and which relate to NewCo's business and its prospects; (c) met with and discussed the Debtors' operations and future prospects with HVM; (d) reviewed certain publicly available financial data for, and considered the market value of, public companies that Lazard deemed generally comparable to the operating business of NewCo; (e) considered certain economic and industry information relevant to the operating business; and (f) conducted such other studies, analyses, inquiries and investigations as it deemed appropriate. Although Lazard conducted a review and analysis of NewCo's business, operating assets and liabilities and NewCo's business plan, it assumed and relied on the accuracy and completeness of all financial and other information furnished to it by the Debtors and HVM.

In addition, Lazard did not independently verify the Projections in connection with preparing estimates of the Valuation Metrics, and no independent valuations or appraisals of the Debtors or NewCo were sought or obtained in connection herewith. Such estimates were developed solely for purposes of the formulation and negotiation of the Plan and the analysis of implied relative recoveries to holders of Allowed Claims thereunder.

The estimated Valuation Metrics of NewCo do not constitute a recommendation to any holder of Allowed Claims as to how such person should vote or otherwise act with respect to the Plan. Lazard has not been asked to and does not express any view as to what the market value of NewCo's securities would be when issued pursuant to the Plan or their future market values. The estimated Valuation Metrics of NewCo set forth herein do not constitute an opinion as to fairness from a financial point of view to any person of the consideration to be received by such person under the Plan or of the terms and provisions of the Plan.

The estimates of the Valuation Metrics reflect the application of standard valuation techniques and does not purport to reflect or constitute appraisals, liquidation values or estimates of the actual market value that may be realized through the sale of any securities to be issued pursuant to the Plan, which may be significantly different than the amounts set forth herein. The value of an operating business is subject to numerous uncertainties and contingencies which are difficult to predict and will fluctuate with changes in factors affecting the financial condition and prospects of such a business. As a result, the estimated Valuation Metrics ranges of NewCo set forth herein are not necessarily indicative of

actual outcomes, which may be significantly more or less favorable than those set forth herein. Neither the Debtors, HVM, NewCo, Lazard, nor any other person assumes responsibility for any differences between the estimated Valuation Metrics ranges and such actual outcomes. Actual market prices of such securities at issuance will depend upon, among other things, the operating performance of NewCo, prevailing interest rates, conditions in the financial markets, the anticipated holding period of securities received by pre-petition creditors (some of whom may prefer to liquidate their investment rather than hold it on a long-term basis), developments in NewCo's industry and economic conditions generally, and other factors that generally influence the prices of securities.

The value of an operating business is subject to uncertainties and contingencies that are difficult to predict and will fluctuate with changes in factors affecting the financial conditions and prospects of such a business. As a result, the estimated Valuation Metrics set forth herein are not necessarily indicative of actual outcomes, which may be significantly more or less favorable than those set forth herein. Because such estimates are inherently subject to uncertainties, none of the Debtors, Lazard or any other person assumes responsibility for their accuracy. Depending on the results of the Debtors' operations or changes in the financial markets, valuation estimates as of the Effective Date may differ from those disclosed herein.

2. Enterprise Valuation Methodology

The following is a brief summary of certain financial analyses performed by Lazard to arrive at its range of estimated Enterprise Values for NewCo. In performing the financial analyses described below and certain other relevant procedures, Lazard reviewed all significant assumptions with HVM on behalf of the Debtors. Lazard's valuation analysis must be considered as a whole. Reliance on only one of the methodologies used or portions of the analysis performed could create a misleading or incomplete conclusion as to Enterprise Value.

(a) **Discounted Cash Flow Analysis**

The discounted cash flow ("**DCF**") analysis is a forward-looking enterprise valuation methodology that estimates the value of an asset or business by calculating the present value of expected future cash flows to be generated by that asset or business. Under this methodology, projected future cash flows are discounted by the business' weighted-average cost of capital (the "**Discount Rate**"). The Discount Rate reflects the estimated blended rate of return that would be required by debt and equity investors to invest in the business based on its capital structure. The enterprise value of the firm is determined by calculating the present value of NewCo's unlevered free cash flows based on the Projections plus an estimate for the value of the firm beyond the Projection Period known as the terminal value. The terminal value is derived by evaluating two (2) approaches: 1) applying a range of normalized multiples to NewCo's projected EBITDA in the final year of the Projection Period, discounted back to the assumed date of emergence by the Discount Rate; and 2) dividing the projected unlevered free cash flow in the year following the final projected year by the Discount Rate minus a range of perpetual growth rates, discounted back to the assumed date of emergence by the Discount Rate.

The cost of equity and the cost of debt for NewCo were used to estimate the Discount Rate, assuming a targeted long-term debt-to-total capitalization ratio based on an assumed range of NewCo's pro forma capitalization and the average leverage ratio of the Peer Group. The cost of equity was calculated based on the "Capital Asset Pricing Model," which assumes that the required equity return is a function of the risk-free cost of capital and the correlation of a publicly traded stock's performance to the return on the broader market. To estimate the cost of debt, Lazard estimated what would be NewCo's blended cost of debt based on current capital markets conditions and the financing costs for comparable

companies with leverage similar to NewCo’s target capital structure. The terminal multiple was determined using an EBITDA multiple range derived from the median forward EBITDA multiple for the hotel sector since 2000.

Although formulaic methods are used to derive the key estimates for the DCF methodology, their application and interpretation still involve complex considerations and judgments concerning potential variances in the projected financial and operating characteristics of NewCo, which in turn affect its cost of capital and terminal multiples. Lazard calculated the DCF valuation on a range of Discount Rates, terminal value EBITDA multiples and perpetuity growth rates as indicated below:

Discounted Cash Flow Analysis Assumptions		
Discount Rate	Terminal Multiple	Perpetuity Growth Rate
13.0% - 15.0%	8.0x – 10.0x	2.5% – 3.5%

In applying the above methodology, Lazard utilized management’s detailed Projections to derive unlevered free cash flows. Free cash flow includes sources and uses of cash not reflected in the income statement, such as capital expenditures. For purposes of the DCF, NewCo is assumed not to be a taxpayer. These cash flows, along with the terminal value, are discounted back to the Assumed Confirmation Date using the range of Discount Rates described above to arrive at a range of Enterprise Values.

(b) Comparable Company Analysis

The comparable company valuation analysis estimates value of a company based on a relative comparison with other publicly traded companies with similar operating and financial characteristics. Under this methodology, the enterprise value for each selected public company was determined by examining the trading prices for the equity securities of such company in the public markets and adding the aggregate amount of outstanding consolidated net debt and pro-rata share of unconsolidated net debt for such company at book value and minority interest. Those enterprise values are commonly expressed as multiples of various measures of operating statistics, including earnings before interest, taxes, depreciation and amortization (“*EBITDA*”) and for asset owners, by dividing Enterprise Value by owned keys to determine Price per Key (“*PPK*”) and subsequently dividing PPK by last twelve months’ RevPAR to derive implied PPK/RevPAR. In addition, each of the selected public company’s operational performance, operating margins, profitability, leverage and business trends were examined. Based on these analyses, financial multiples and ratios are calculated to apply to NewCo’s actual and projected operational performance.

A key factor to this approach is the selection of companies with relatively similar assets and operational characteristics to NewCo. Common criteria for selecting comparable companies for the analysis include, among other relevant characteristics, types of assets, exposure to similar markets, age of asset, business risks, growth prospects, maturity of businesses, location, market presence and size and scale of operations. The selection of appropriate comparable companies is often difficult, a matter of judgment, and subject to limitations due to sample size and the availability of meaningful market-based information. No company is identical to NewCo with respect to either its assets or operations; therefore, valuation conclusions cannot be drawn solely from quantitative results. Furthermore, the nature of NewCo’s business as both a hotel owner and operator further limits the universe of potential comparable companies.

Lazard selected the following publicly traded companies (the “*Peer Group*”) on the basis of general comparability to NewCo in one or more of the factors described above: Ashford Hospitality Trust, FelCor Lodging Trust, Hersha Hospitality, Hospitality Properties Trust, Supertel Hospitality and Choice Hotels.

Lazard calculated market multiples for the Peer Group based on 2009, 2010 and 2011 estimated EBITDA by dividing the enterprise value of each comparable company, by the actual 2009 and projected 2010 and 2011 EBITDA, as per the consensus of equity research analysts, as adjusted for non-recurring items. In determining the applicable EBITDA multiple ranges, Lazard considered a variety of factors, including both qualitative attributes and quantitative measures such as historical and projected revenue and EBITDA results, historical enterprise value/EBITDA trading multiples, EBITDA margins, financial distress impacting trading values, size, growth and similarity in business lines. Based on this analysis, the selected EBITDA multiple ranges for 2009, 2010 and 2011 EBITDA and PPK/RevPAR are set forth in the tables below.

	Enterprise Value/EBITDA Multiple		
	Low	High	Peer Median
2009E	12.0x	14.0x	13.5x
2010E	12.5x	14.5x	13.7x
2011E	11.0x	13.0x	12.5x
	PPK/RevPAR		
	Low	High	Peer Median
	1.2x	1.6x	1.4x

The range of EBITDA multiples described above were then applied to NewCo’s actual 2009 and projected 2010 and 2011 income from operations before depreciation and amortization, impairment charges, and other non-recurring items, such as special charges and incremental EBITDA from the LTL program, as further described in clause (d) below, (“*Adjusted EBITDA*”) to determine a range of Enterprise Values.

(c) **Precedent Transactions Analysis**

The precedent transactions valuation analysis is based on the enterprise values of companies involved in public merger and acquisition transactions that have asset, operational and financial characteristics similar to NewCo. Under this methodology, the enterprise value of such companies is determined by an analysis of the consideration paid and the net debt assumed in the merger or acquisition transaction. As in a comparable company valuation analysis, those enterprise values are commonly expressed as multiples of various measures of operating statistics, such as EBITDA, and PPK/RevPAR. Lazard reviewed industry-wide valuation multiples, considering prices paid as a multiple of EBITDA and PPK/RevPAR, for hotel asset owners with similar portfolios as NewCo. The derived multiples are then applied to the NewCo’s operating statistics to determine the Enterprise Value or value to a potential strategic buyer.

Unlike the comparable company analysis, the enterprise valuation derived using this methodology reflects a “control” premium (i.e., a premium paid to purchase a majority or controlling position in the assets of a company). In addition, other factors not directly related to a company’s

business operations can affect a valuation based on precedent transactions, including: (a) circumstances surrounding a merger transaction may introduce “diffusive quantitative results” into the analysis (e.g., a buyer may pay an additional premium for reasons that are not solely related to competitive bidding); (b) the market environment is not identical for transactions occurring at different periods of time; and (c) circumstances pertaining to the financial position of the company may have an impact on the resulting purchase price (e.g., a company in financial distress may receive a lower price due to perceived weakness in its bargaining leverage).

As with the comparable company analysis, because no precedent merger or acquisition used in any analysis will be identical to the target transaction, valuation conclusions cannot be based solely on quantitative results. The reasons for and circumstances surrounding each acquisition transaction are specific to such transaction, and there are inherent differences between the businesses, operations, and prospects of each target. Therefore, qualitative judgments must be made concerning the differences between the characteristics of these transactions and other factors and issues that could affect the price an acquirer is willing to pay in an acquisition. The number of completed transactions for which public data is available also limits this analysis. Furthermore, the data available for all the precedent transactions may have discrepancies due to varying sources of information. As described above, the precedent transactions analysis explains other aspects of value besides the inherent value of a company. As a result of the significant limitations as to the usefulness of this methodology, reliance on only this methodology could create a misleading or incomplete conclusion as to Enterprise Value.

In deriving a range of Enterprise Values for NewCo under this methodology, Lazard calculated multiples of total transaction value (“*Transaction Value*”) to the next fiscal year (“*NFY*”) EBITDA of the acquired companies and applied these multiples to the 2010E Adjusted EBITDA for NewCo.

Lazard evaluated various merger and acquisition transactions that have occurred in the hotel industry over the last seven years for asset owners. Many of the transactions that have occurred over the past seven years have been executed under drastically different fundamental, credit and other market conditions from those prevailing in the current marketplace. These considerations greatly reduce the relevance of the precedent transaction analysis.

Lazard calculated multiples of the target companies by dividing the disclosed purchase price of the target’s equity, plus any debt assumed as part of the transaction less any cash on the target’s balance sheet, by estimated NFY EBITDA. Based on this calculation and the qualitative factors described above, Lazard selected the EBITDA multiple ranges set forth in the table below:

	Enterprise Value/EBITDA Multiple		
	Low	High	Peer Median
NFY	9.5x	12.5x	11.0x
	PPK/RevPAR		
	Low	High	Peer Median
	1.3x	1.7x	1.6x

(d) **Incremental LTL EBITDA**

In order to bolster demand during the current economic downturn, the Company has pursued the LTL strategy. This strategy focuses on guest stays longer than 60 days. This strategy significantly altered the Company's length of stay mix in the latter portion of 2009 and is expected to continue through 3Q 2010, as management winds down the program. While management does not specifically track revenue and expenses related to this program, for valuation purposes, the Company has calculated an estimate of the incremental EBITDA attributable to this program in 2009 actuals and 2010 projections. This methodology is based on the Company's revenue outperformance as compared to its Revised Business Plan 4 ("**RBP 4**") in 4Q 2010, which contemplated a normalized mix of business. The Company also adjusted expenses using an assumption that the Company incurs limited incremental operating expenses as a result of the LTL guests. The incremental EBITDA from this program is not considered to be recurring and is adjusted from EBITDA accordingly for the comparable company analysis and precedent transaction analysis.

The Company anticipates incremental cash flow from the LTL program beyond the Assumed Confirmation Date to be approximately \$3 million. This cash flow is not otherwise incorporated in the comparable company analysis or precedent transaction analysis. Accordingly, this cash balance has been added to the value derived from each of these analyses in order to estimate Enterprise Value.

3. Other Assets/ Liabilities Valuation

The DCF, comparable company and precedent transaction analyses described above reflect the value of NewCo's operating business on a going concern basis. Upon emergence, NewCo will also have certain other assets and liabilities that impact estimated total value available for distribution to holders of Allowed Claims. The value of these assets and liabilities is estimated to be approximately \$2 million. Reorganization Value is calculated by reducing estimated Enterprise Value by the value of the other assets and liabilities.

The projected NewCo working capital balances at the Assumed Confirmation Date represent standard working capital accounts necessary to operate a business of this type, adjusted for seasonality as necessary. All valuation methodologies described in Section 2 implicitly incorporate working capital into the going concern valuation. As a result, no incremental value adjustment is made for net working capital of NewCo.

THE SUMMARY SET FORTH ABOVE DOES NOT PURPORT TO BE A COMPLETE DESCRIPTION OF THE ANALYSES PERFORMED BY LAZARD. THE PREPARATION OF A VALUATION ESTIMATE INVOLVES VARIOUS DETERMINATIONS AS TO THE MOST APPROPRIATE AND RELEVANT METHODS OF FINANCIAL ANALYSIS AND THE APPLICATION OF THESE METHODS IN THE PARTICULAR CIRCUMSTANCES AND, THEREFORE, SUCH AN ESTIMATE IS NOT READILY SUITABLE TO SUMMARY DESCRIPTION. IN PERFORMING THESE ANALYSES, LAZARD AND THE DEBTORS MADE NUMEROUS ASSUMPTIONS WITH RESPECT TO INDUSTRY PERFORMANCE, BUSINESS AND ECONOMIC CONDITIONS AND OTHER MATTERS. THE ANALYSES PERFORMED BY LAZARD ARE NOT NECESSARILY INDICATIVE OF ACTUAL VALUES OR FUTURE RESULTS, WHICH MAY BE SIGNIFICANTLY MORE OR LESS FAVORABLE THAN SUGGESTED BY SUCH ANALYSES.

THE VALUATION OF NEWLY-ISSUED SECURITIES IS SUBJECT TO ADDITIONAL UNCERTAINTIES AND CONTINGENCIES, ALL OF WHICH ARE DIFFICULT TO PREDICT. ACTUAL MARKET PRICES OF SUCH SECURITIES AT ISSUANCE WILL DEPEND UPON,

AMONG OTHER THINGS, PREVAILING INTEREST RATES, CONDITIONS IN THE FINANCIAL MARKETS, THE ANTICIPATED INITIAL SECURITIES HOLDING OF PREPETITION CREDITORS, SOME OF WHICH MAY PREFER TO LIQUIDATE THEIR INVESTMENT RATHER THAN HOLD IT ON A LONG-TERM BASIS, AND OTHER FACTORS THAT GENERALLY INFLUENCE THE PRICES OF SECURITIES. ACTUAL MARKET PRICES OF SUCH SECURITIES ALSO MAY BE AFFECTED BY THE ISSUER'S HISTORY IN CHAPTER 11, CONDITIONS AFFECTING COMPETITORS OR THE INDUSTRY IN WHICH THE ISSUER PARTICIPATES GENERALLY, OR BY OTHER FACTORS NOT POSSIBLE TO PREDICT. ACCORDINGLY, THE VALUATION METRICS DO NOT NECESSARILY REFLECT, AND SHOULD NOT BE CONSTRUED AS REFLECTING, VALUES THAT WILL, OR ARE LIKELY TO, BE ATTAINED FOR THE NEWCO COMMON INTERESTS IN THE PUBLIC OR PRIVATE MARKETS. THE POST-MONEY EQUITY VALUE INDICATED IN THIS ANALYSIS DOES NOT PURPORT TO BE AN ESTIMATE OF THE POST-REORGANIZATION MARKET TRADING VALUE. SUCH TRADING VALUE MAY BE MATERIALLY DIFFERENT FROM THE VALUE RANGES ASSOCIATED WITH THE VALUATION ANALYSIS. INDEED, THERE CAN BE NO ASSURANCE THAT A TRADING MARKET WILL DEVELOP FOR THE NEWCO COMMON INTERESTS, PARTICULARLY SINCE THE NEWCO COMMON INTERESTS WILL NOT BE PUBLICLY TRADED.

IX.

CERTAIN FACTORS AFFECTING THE DEBTORS

A. CERTAIN BANKRUPTCY LAW CONSIDERATIONS

1. Risk of Non-Confirmation of the Plan of Reorganization

Although the Debtors believe that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion or that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate resolicitation of votes.

2. Non-Consensual Confirmation

In the event any impaired class of claims or equity interests does not accept a plan of reorganization, a bankruptcy court may nevertheless confirm such plan at the proponent's request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes. See Section X, entitled "CONFIRMATION OF THE PLAN OF REORGANIZATION; Requirements for Confirmation of the Plan of Reorganization; Requirements of section 1129(b) of the Bankruptcy Code." If any Class of Claims does not accept the Plan, these requirements will have to be satisfied with respect to such Class. Because Classes 6 (Existing Equity) and 15 (Other Existing Equity) are deemed to reject the Plan, these requirements must be satisfied with respect to such Classes. The Debtors believe that the Plan satisfies these requirements.

3. Risk of Delay in Confirmation of the Plan

Although the Debtors believe that they will be able to confirm the Plan prior to May 28, 2010, if they are not able to do so, or to obtain an extension of this deadline from the Investors, the

Investors would have the right to terminate the Investment and Standby Purchase Agreement and collect the Commitment Payment and expense reimbursement as provided for therein.

4. The Debtors Have No Duty to Update

The statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtors have no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

5. Risk of Non-Confirmation of the Plan

In order for the Debtors to emerge successfully from the Chapter 11 Cases as viable entities, the Debtors, like any other Chapter 11 debtors, must obtain approval of the Plan from their creditors and confirmation of the Plan through the Bankruptcy Court, and then successfully implement the Plan. The foregoing process requires the Debtors to (a) meet certain statutory requirements with respect to the adequacy of this Disclosure Statement; (b) solicit and obtain creditor acceptances of the Plan; and (c) fulfill other statutory conditions with respect to the confirmation of the Plan.

The Debtors may or may not receive the requisite acceptances to confirm the Plan. If the requisite acceptances of the Plan are received, the Debtors will seek confirmation of the Plan by the Bankruptcy Court. If the requisite acceptances are not received, the Debtors will nevertheless seek confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code as long as at least one Impaired Class has accepted the Plan (determined without including the acceptance of any “insider” in such Impaired Class).

Even if the requisite acceptances of the Plan are received, or the Debtors are able to seek a “cramdown” confirmation, the Bankruptcy Court may not confirm the Plan as proposed. A holder of a Claim in a non-accepting Class could challenge the balloting procedures and results as not being in compliance with the Bankruptcy Code. Even if the Bankruptcy Court determined that the balloting procedures and results were appropriate, the Bankruptcy Court could decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Specifically, section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by the Bankruptcy Court that: (a) confirmation of the Plan is not likely to be followed by a liquidation or a need for further financial reorganization of the Debtors; (b) the value of distributions to holders of Claims within an Impaired Class who do not accept the Plan will not be less than the value such holders would receive if the Debtors were liquidated under Chapter 7; and (c) in the event of a “cramdown” confirmation, the Plan “does not unfairly discriminate” and is “fair and equitable” with respect to non-accepting Classes. The Bankruptcy Court may determine that the Plan does not satisfy one or more of these applicable requirements, in which case the Plan might not be confirmed by the Bankruptcy Court.

If the Plan is not confirmed by the Bankruptcy Court, it is unclear whether the Debtors would be able to reorganize their businesses and what, if any, distributions holders of Claims and Equity Interests ultimately would receive with respect to their Claims or Equity Interests. In addition, there can be no assurance that the Debtors will be able to successfully develop, prosecute, confirm, and consummate an alternative plan of reorganization with respect to the Debtors that is acceptable to the Bankruptcy Court and the holders of Claims and Equity Interests. Furthermore, it is possible that third parties may seek and obtain approval to terminate or shorten the exclusivity period during which only the

Debtors may propose and confirm a plan of reorganization, further disrupting the Debtors' reorganization efforts.

6. Claims Estimates

By order dated November 19, 2009, the Bankruptcy Court established a Bar Date of Friday, January 15, 2010 at 5:00 p.m. (Prevailing Eastern time). As of the date hereof, the Bar Date has passed. The Debtors and their professionals are reviewing and analyzing the proofs of claim received, and currently estimate that there are approximately \$3,507,732,377.84 of claims asserted against the Debtors.⁸

B. ADDITIONAL FACTORS TO BE CONSIDERED

1. Financial Projections and Other Forward-Looking Statements Are Not Assured, and Actual Results Are Likely to Vary

Certain of the information contained in this Disclosure Statement is, by nature, forward looking, and contains estimates and assumptions which might ultimately prove to be incorrect, and contains projections including, without limitation, the Financial Projections, which may be materially different from actual future experiences. There are uncertainties associated with any projections and estimates, including, without limitation, the Financial Projections, and the projections and estimates herein should not be considered assurances or guarantees of the amount of funds or the amount of Claims in the various Classes that might be allowed. The fundamental premise of the Plan is the reduction of the Debtors' debt levels and the implementation and realization of the Debtors' business plan, as reflected in the Financial Projections, which reflect numerous assumptions concerning the anticipated future performance of the Debtors, some of which may not materialize. Such assumptions include, among other items, assumptions concerning the U.S. economy, the ability to make necessary capital expenditures, the ability to retain and grow the Debtors' customer base and control future operating expenses. The Debtors believe that the assumptions underlying the Financial Projections are reasonable. However, unanticipated events and circumstances occurring subsequent to the preparation of the Financial Projections may affect the actual financial results of the Debtors. Therefore, the actual results achieved throughout the periods covered by the Financial Projections necessarily will vary from the projected results, and such variations may be material and adverse.

2. No Representations Outside This Disclosure Statement Are Authorized

No representations concerning or related to the Debtors, the Chapter 11 Cases, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision.

⁸ This estimate does not include: (i) Claims that have been filed as unliquidated or contingent, and (ii) Claims against the Subsequent Debtors as to which a bar date for filing Claims has not yet been set.

3. No Legal or Tax Advice Is Provided to You by This Disclosure Statement

The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each holder of a Claim or Equity Interest should consult his, her, or its own legal counsel and accountant as to legal, tax and other matters concerning his, her, or its Claim or Equity Interest.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

4. No Admission Made

Nothing contained herein shall constitute an admission of, or be deemed evidence of, the tax or other legal effects of the Plan on the Debtors or on holders of Claims or Equity Interests.

5. A Liquid Trading Market for the NewCo Common Interests and Common Warrants is Unlikely to Develop

A liquid trading market for the NewCo Common Interests and New Warrants is unlikely to develop. As of the Effective Date, neither the NewCo Common Interests nor the New Warrants will be listed for trading on any stock exchange or trading system and the Debtors will not file any reports with the SEC. Consequently, the trading liquidity of the NewCo Common Interests and New Warrants will be limited as of the Effective Date. The future liquidity of the trading markets for NewCo Common Interests and New Warrants will depend, among other things, upon the number of holders of such securities, whether such securities become listed for trading on an exchange or trading system at some future time and whether the Debtors begin to file annual and quarterly reports with the SEC.⁹

6. Business Factors and Competitive Conditions

(a) General Economic Conditions

In the Financial Projections, the Debtors have assumed that the general economic conditions of the United States economy will improve over the next several years. The stability of economic conditions is subject to many factors outside the Debtors' control, including interest rates, inflation, unemployment rates, the housing market, consumer spending, war, terrorism and other such factors. Any one of these or other economic factors could have a significant impact on the operating performance of the Debtors. There is no guarantee that economic conditions will improve in the near term.

(b) Implementation of Business Plan

The Debtors believe that they will succeed in implementing and executing their business plan and financial restructuring. However, there are risks that the goals of the Debtors' going-forward business plan and financial restructuring strategy will not be achieved. In such event, the Debtors may be unable to refinance maturing debt or be forced to sell all or parts of their business, develop and implement further restructuring plans not contemplated herein or become subject to further insolvency proceedings.

⁹ Consider impact of registration rights agreement.

7. Seasonality

The Debtors' principal sources of revenue are revenues generated by their properties. The Debtors' experience seasonal revenue patterns similar to those of the lodging industry in general. This seasonality can be expected to cause quarterly fluctuations in the Debtors' revenues, profit margins and net income.

8. Competition

The lodging industry is highly competitive, which may impact the Debtors' ability to compete successfully for customers with other hotel properties. The Debtors generally operate in markets that contain numerous competitors. Each of the Debtors' hotel brands competes with major hotel chains in national and international venues and with independent companies in regional markets. The Debtors' ability to remain competitive and to attract and retain business and leisure travelers depends on the Debtors' success in distinguishing the quality, value, and efficiency of the Debtors' lodging products and services from those offered by others and their access to capital to be used for capital expenditures. If the Debtors are unable to compete successfully in these areas, this could limit the Debtors' operating margins, diminish the Debtors' market share, and reduce their earnings.

9. Operating Risks

The Debtors are subject to the range of operating risks common to the hotel, and corporate apartment industries. The profitability of the hotels that the Debtors own may be adversely affected by a number of factors, including:

- (a) the availability of and demand for hotel rooms;
- (b) international, national, and regional economic and geopolitical conditions;
- (c) the impact of war, actual or threatened terrorist activity and heightened travel security measures instituted in response to war, terrorist activity or threats;
- (d) the desirability of particular locations and changes in travel patterns;
- (e) the state of the housing and construction industries;
- (f) travelers' fears of exposure to contagious diseases, such as Avian Flu, Severe Acute Respiratory Syndrome and H1N1 Flu;
- (g) the occurrence of natural disasters, such as earthquakes, tsunamis, and hurricanes;
- (h) taxes and government regulations that influence or determine wages, prices, interest rates, construction procedures, and costs;
- (i) the costs and administrative burdens associated with compliance with applicable laws and regulations, including, among others, privacy, marketing and sales, licensing, labor, employment, immigration and environmental laws, and regulations applicable under the Office of Foreign Asset Control and the Foreign Corrupt Practices Act;

- (j) the availability and cost of capital to allow NewCo to fund investments;
- (k) regional and national development of competing properties; specifically, the continued development in the extended stay segment which has already undergone the sharpest increase in supply over the past few years relative to other segments of the industry;
- (l) increases in wages and other labor costs, energy, healthcare, insurance, transportation and fuel, and other expenses central to the conduct of the Debtors' business or the cost of travel for the Debtors' customers, including recent increases in energy costs and any resulting increase in travel costs or decrease in airline capacity;
- (m) organized labor activities, which could cause the diversion of business from hotels involved in labor negotiations, loss of group business, and/or increased labor costs; and
- (n) foreign currency exchange fluctuations.

Any one or more of these factors could limit or reduce the demand or the prices of the Debtors' hotels are able to obtain for hotel rooms and corporate apartments or could increase their costs and therefore reduce the profit of NewCo's lodging businesses. Even where such factors do not reduce demand, property-level profit margins may suffer if NewCo is unable to fully recover increased operating costs from its guests. Similarly, NewCo's revenue could be impacted by weak property-level revenue or profitability.

10. National and Regional Conditions

The Debtors' lodging operations are subject to national and regional conditions. Because the Debtors conduct their business on a national platform, the Debtors' activities are susceptible to changes in the performance of regional and national economies. In recent years, the Debtors' business has been hurt by decreases in travel resulting from recent economic conditions and the heightened travel security measures that have resulted from the threat of further terrorism. In addition, the Debtors' performance is substantially dependent upon the construction and housing industries. NewCo's future economic performance is similarly subject to the economic environment in the United States and Canada, which has become increasingly uncertain with recent failures and near failures of a number of large financial service companies, the current worldwide recession, the resulting unknown pace of business travel, and the occurrence of any future incidents in the United States and Canada.

11. Property Damage

The Debtors have comprehensive property and liability insurance policies with coverage features and insured limits that the Debtors believe are customary. Market forces beyond the Debtors control may nonetheless limit the scope of insurance coverage that NewCo can obtain and their ability to obtain coverage at reasonable rates. Certain types of losses, generally of a catastrophic nature, such as earthquakes, hurricanes and floods, or terrorist acts, may be uninsurable or too expensive to justify obtaining insurance. As a result, the Debtors may not be successful in obtaining insurance without increases in cost or decreases in coverage levels. In addition, in the event of a substantial loss, the insurance coverage the Debtors carry may not be sufficient to pay the full market value or replacement cost of the Debtors' lost investment or in some cases could result in certain losses being totally uninsured. As a result, the Debtors could lose some or all of the capital they have invested in a property, as well as the anticipated future revenue from the property, and the Debtors could remain obligated for guarantees, debt, or other financial obligations related to the property.

12. Technology

A failure to keep pace with developments in technology could impair NewCo's operations or competitive position. The lodging industry continues to demand the use of sophisticated technology and systems, including those used for the Debtors' reservation, revenue management and property management systems, the Suite Offers email program, and other technologies the Debtors make available to their guests. These technologies and systems must be refined, updated, and/or replaced with more advanced systems on a regular basis. If NewCo is unable to do so as quickly as their competitors or within budgeted costs and time frames, their business could suffer. The Debtors also may not achieve the benefits that they anticipate from any new technology or system, and a failure to do so could result in higher than anticipated costs or could impair the Debtors' operating results.

13. Third-Party Internet Services

An increase in the use of third-party Internet services to book online hotel reservations could adversely impact NewCo's revenues. Some of the Debtors' hotel rooms are booked through Internet travel intermediaries, such as Expedia.com®, Travelocity.com®, and Orbitz.com®, as well as lesser-known online travel service providers. These intermediaries initially focused on leisure travel, but now also provide offerings for corporate travel and group meetings. Although the Debtors' Lowest Internet Price Guarantee has greatly reduced the ability of intermediaries to undercut the published rates at the Debtors' hotels, intermediaries continue to use a variety of aggressive online marketing methods to attract customers[, including the purchase, by certain companies, of trademarked online keywords such as "Extended Stay" from Internet search engines such as Google® and Yahoo® to steer customers toward their Web sites (a practice currently being challenged by various trademark owners in federal court)]. Although the Debtors have successfully limited these practices through contracts with key online intermediaries, the number of intermediaries and related companies that drive traffic to intermediaries' Web sites is too large to permit them to eliminate this risk entirely. NewCo's business and profitability could be harmed if online intermediaries succeed in significantly shifting loyalties from the Debtors' lodging brands to their travel services, diverting bookings away from ExtendedStayHotels.com or, through their fees, increasing the overall cost of internet bookings for the Debtors' hotels.

14. Customer and Internal Data

Failure to maintain the integrity of internal or customer data could result in faulty business decisions, damage of reputation and/or subject the Debtors to costs, fines or lawsuits. The Debtors' businesses require collection and retention of large volumes of internal and customer data, including credit card numbers and other personally identifiable information of the Debtors' customers as they are entered into, processed by, summarized by, and reported by the Debtors' various information systems and those of their service providers. The Debtors also maintain personally identifiable information about their employees. The integrity and protection of that customer, employee, and company data is critical to the Debtors. If that data is inaccurate or incomplete, the Debtors could make poor decisions. The Debtors' customers and employees also have a high expectation that the Debtors will adequately protect their personal information, and the regulatory environment surrounding information security and privacy is increasingly demanding, both in the United States and Canada. A significant theft, loss or fraudulent use of customer, employee or company data could adversely impact the Debtors' reputation and could result in remedial and other expenses, fines and litigation.

15. Privacy Laws

Changes in privacy law could adversely affect the Debtors' ability to market their products effectively. The Debtors rely on a variety of direct marketing techniques, including telemarketing, email marketing, and postal mailings. Any further restrictions in laws such as the Telemarketing Sales Rule, CANSPAM Act, and various U.S. state laws, or new federal laws, regarding marketing and solicitation or international data protection laws that govern these activities could adversely affect the continuing effectiveness of telemarketing, email, and postal mailing techniques and could force further changes in the Debtors' marketing strategy. If this occurs, the Debtors may not be able to develop adequate alternative marketing strategies, which could impact the amount of bookings made by the Debtors' customers. The Debtors also obtain access to potential customers from travel service providers or other companies with which the Debtors have substantial relationships and market to some individuals on these lists directly or by including the Debtors' marketing message in the other company's marketing materials. If access to these lists was prohibited or otherwise restricted, the Debtors' ability to develop new customers, and introduce them to the Debtors' hotels could be impaired.

16. Employees

If HVM cannot attract and retain talented associates to manage and provide services to NewCo, NewCo's business could suffer. HVM competes with other companies both within and outside of HVM's and NewCo's industry for talented personnel. If HVM is not able to recruit, train, develop and retain sufficient numbers of talented associates, NewCo and HVM could experience increased associate turnover, decreased guest satisfaction, low morale, inefficiency or internal control failures. Insufficient numbers of talented associates could also limit HVM's ability to grow and expand NewCo's business.

17. Continuing Leverage and Ability to Service Debt

Although the consummation of the Plan will significantly reduce NewCo's debt service obligations, NewCo will remain significantly leveraged. The Debtors believe that, following consummation of the Plan, NewCo will be able to meet its anticipated future operating expenses, capital expenditures and debt service obligations. However, NewCo's ability to meet both its debt service obligations and carry out capital spending that is important to its growth and productivity will depend on a number of factors, including future operating performance and ability to achieve the business plan. These factors will be affected by general economic, financial, competitive, regulatory, business and other factors beyond NewCo's control.

C. CERTAIN TAX MATTERS

For a summary of certain federal income tax consequences of the Plan to holders of Claims and Equity Interests of the Debtors, see Section XII below, entitled "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN."

X.

CONFIRMATION OF THE PLAN OF REORGANIZATION

A. CONFIRMATION HEARING

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a plan of reorganization. As set forth in the Disclosure

Statement Order, the Bankruptcy Court has scheduled the Confirmation Hearing for [____] [____], 2010 at [____] [(Prevailing Eastern Time)]. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or interests held or asserted by the objector against the Debtors' estate(s) or property, the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court, with a copy to Chambers, together with proof of service thereof, and served upon the following parties so as to be received no later than [____] [(Prevailing EasternTime)] on [____] [____], 2010:

<p>HVM LLC 100 Dunbar Street Spartanburg, South Carolina 29306 Attn: Kevin McDougall, Esq.</p> <p>Extended Stay Inc. c/o The Lightstone Group 1985 Cedar Bridge Avenue Suite 1 Lakewood, New Jersey, 08701 Attn: Joseph Teichman, Esq.</p> <p>Debtors</p>	<p>Hahn & Hessen LLP 488 Madison Avenue New York, New York 10022 Attn: Mark T. Power, Esq., Mark T. Indelicato, Esq., Christopher Jarvinen, Esq.</p> <p>Attorneys for the Creditors' Committee</p>
<p>Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10153 Attn: Marcia L. Goldstein, Esq., Jacqueline Marcus, Esq.</p> <p>Attorneys for Debtors and Debtors in Possession</p>	<p>Fried, Frank, Harris, Shriver & Jacobson LLP One New York Plaza New York, New York 10004 Attn: Brad Eric Scheler, Esq., Jennifer L. Rodburg, Esq.</p> <p>Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166-0193 Attn: David M. Feldman, Esq.</p> <p>Attorneys for Investors</p>

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

B. REQUIREMENTS FOR CONFIRMATION OF THE PLAN OF REORGANIZATION

1. Requirements of section 1129(a) of the Bankruptcy Code

(a) General Requirements

At the Confirmation Hearing, the Bankruptcy Court will determine whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code have been satisfied:

(1) The Plan complies with the applicable provisions of the Bankruptcy Code.

(2) The Debtors have complied with the applicable provisions of the Bankruptcy Code.

(3) The Plan has been proposed in good faith and not by any means proscribed by law.

(4) Any payment made or promised by the Debtors or by a person issuing securities or acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.

(5) The Debtors have disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director or officer of the Debtors, an affiliate of the Debtors participating in a Plan with the Debtors, or a successor to the Debtors under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy, and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider.

(6) With respect to each class of claims or equity interests, each holder of an impaired claim or impaired equity interest either has accepted the Plan or will receive or retain under the Plan on account of such holder's claim or equity interest, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtors were liquidated on the Effective Date under Chapter 7. See discussion of "Best Interests Test" below.

(7) Except to the extent that the Plan meets the requirements of section 1129(b) of the Bankruptcy Code (discussed below), each class of claims or equity interests has either accepted the Plan or is not impaired under the Plan.

(8) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that administrative expenses and priority claims other than priority tax claims will be paid in full in cash on the Effective Date and that priority tax claims will receive on account of such claims deferred cash payments, over a period not exceeding five years after the Commencement Date, of a value, as of the Effective Date, equal to the allowed amount of such claims.

(9) At least one class of impaired claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a claim in such class.

(10) Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan. See discussion of “Feasibility” below.

(11) The Plan provides for the continuation after the Effective Date of payment of all “retiree benefits” (as defined in section 1114 of the Bankruptcy Code), at the level established pursuant to subsection 1114(e)(1)(B) or 1114(g) of the Bankruptcy Code at any time prior to confirmation of the Plan, for the duration of the period the Debtors have obligated themselves to provide such benefits, if any.

(b) The Best Interests Test and the Debtors’ Liquidation Analyses

Pursuant to section 1129(a)(7) of the Bankruptcy Code (often called the “**Best Interests Test**”), holders of Allowed Claims and Equity Interests must either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Plan’s assumed Effective Date, that is not less than the value such non-accepting holder would receive or retain if the Debtors were to be liquidated under Chapter 7.

The first step in meeting the Best Interests Test is to determine the dollar amount that would be generated from a hypothetical liquidation of the Debtors’ assets and properties in the context of a Chapter 7 case. The gross amount of cash available would be the sum of the proceeds from the disposition of the Debtors’ assets and the cash held by the Debtors at the time of the commencement of the Chapter 7 case. The next step is to reduce that total by the amount of any claims secured by such assets, the costs and expenses of the liquidation, and such additional administrative expenses and priority claims that may result from the termination of the Debtors’ business and the use of Chapter 7 for the purposes of liquidation. Any remaining net cash would be allocated to creditors and shareholders in strict priority in accordance with section 726 of the Bankruptcy Code (see discussion below). Finally, taking into account the time necessary to accomplish the liquidation, the present value of such allocations may be compared to the value of the property that is proposed to be distributed under the Plan on the Effective Date.

The Debtors’ costs of liquidation under Chapter 7 would include the fees payable to a Chapter 7 trustee in bankruptcy, as well as those that might be payable to attorneys and other professionals that such a trustee may engage, plus any unpaid expenses incurred by the Debtors during the Chapter 11 Cases and allowed in the Chapter 7 case, such as compensation for attorneys, financial advisors, appraisers, accountants and other professionals, and costs and expenses of members of any statutory committee of unsecured creditors appointed by the United States Trustee pursuant to section 1102 of the Bankruptcy Code and any other committee so appointed. Moreover, in a Chapter 7 liquidation, additional claims would arise by reason of the breach or rejection of obligations incurred and executory contracts or leases entered into by the Debtors both prior to, and during the pendency of, the Chapter 11 Cases.

The foregoing types of claims, costs, expenses, fees and such other claims that may arise in a liquidation case would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay pre-Chapter 11 priority and unsecured claims. Under the absolute priority rule, no junior creditor would receive any distribution until all senior creditors are paid in full, with interest, and no equity holder receives any distribution until all creditors are paid in full, with interest.

The Debtors, with the assistance of their restructuring and financial advisors, are preparing a hypothetical liquidation analysis (the “*Liquidation Analysis*”) which will be filed with the Bankruptcy Court at least two (2) weeks prior to the Disclosure Statement Hearing.

After consideration of the effects that a Chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in a Chapter 11 case, including (i) the increased costs and expenses of a liquidation under Chapter 7 arising from fees payable to a trustee in bankruptcy and professional advisors to such trustee, (ii) where applicable, the erosion in value of assets in a Chapter 7 case in the context of the expeditious liquidation required under Chapter 7 and the “forced sale” atmosphere that would prevail, and (iii) substantial increases in claims which would be satisfied on a priority basis, the Debtors have determined that in a Chapter 7 case the holders of the Mortgage Claim and the ESA UD Mortgage Claim would receive less than the distribution provided for under the Plan. Moreover, holders of the Mortgage Deficiency Claim, Unsecured Claims, Existing Equity and Other Equity Interests would receive no distributions at all. Consequently, confirmation of the Plan will provide each creditor of the Debtors with a recovery that is not less than it would receive pursuant to a liquidation of the Debtors under Chapter 7.

Moreover, the Debtors believe that the value of any distributions from the liquidation proceeds to each class of allowed claims in a Chapter 7 case would be the same or less than the value of distributions under the Plan because such distributions in a Chapter 7 case may not occur for a substantial period of time. In this regard, it is possible that distribution of the proceeds of the liquidation could be delayed for a year or more after the completion of such liquidation in order to resolve the claims and prepare for distributions. In the event litigation were necessary to resolve claims asserted in the Chapter 7 case, the delay could be further prolonged and administrative expenses further increased.

UNDERLYING THE LIQUIDATION ANALYSIS ARE NUMEROUS ESTIMATES AND ASSUMPTIONS REGARDING LIQUIDATION PROCEEDS THAT, ALTHOUGH DEVELOPED AND CONSIDERED REASONABLE BY THE DEBTORS’ MANAGEMENT AND THEIR ADVISORS, ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, REGULATORY AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES BEYOND THE CONTROL OF THE DEBTORS AND THEIR MANAGEMENT. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE VALUES REFLECTED IN THE LIQUIDATION ANALYSIS WOULD BE REALIZED IF THE DEBTORS WERE, IN FACT, TO UNDERGO SUCH A LIQUIDATION, AND ACTUAL RESULTS COULD MATERIALLY DIFFER FROM THE RESULTS SET FORTH HEREIN.

(c) Feasibility

The Bankruptcy Code requires a debtor to demonstrate that confirmation of a plan of reorganization is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor unless so provided by the plan of reorganization. For purposes of determining whether the Plan meets this requirement, the Debtors have analyzed NewCo’s ability to meet its financial obligations as contemplated thereunder. As part of this analysis, the Debtors have requested Lazard to review the Financial Projections prepared by the Debtors and contained in Section VIII above, entitled “PROJECTIONS AND VALUATION ANALYSIS,” and in Exhibit “C” to this Disclosure Statement. The Financial Projections are based upon the assumption that the Plan will be confirmed by the Bankruptcy Court and the Effective Date of the Plan and its substantial consummation will take place on June 30, 2010. The Financial Projections include balance sheets, statements of operations and statements of cash flows. Based upon the Financial Projections, the Debtors believe NewCo will be able to make all payments required to be made pursuant to the Plan.

2. Requirements of section 1129(b) of the Bankruptcy Code

The Bankruptcy Court may confirm the Plan over the rejection or deemed rejection of the Plan by a class of claims or equity interests if the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to such class.

No Unfair Discrimination. This test applies to classes of claims or equity interests that are of equal priority and are receiving different treatment under a plan of reorganization. The test does not require that the treatment be the same or equivalent, but that such treatment be “fair.”

Fair and Equitable Test. This test applies to classes of different priority (e.g., unsecured versus secured) and includes the general requirement that no class of claims receive more than 100% of the allowed amount of the claims in such class. As to the dissenting class, the test sets different standards, depending on the type of claims or interests in such class:

- Secured Claims. Each holder of an impaired secured claim either (i) retains its liens on the property (or if sold, on the proceeds thereof) to the extent of the allowed amount of its secured claim and receives deferred cash payments having a value, as of the effective date of the plan, of at least the allowed amount of such claim or (ii) receives the “indubitable equivalent” of its allowed secured claim.
- Unsecured Claims. Either (i) each holder of an impaired unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed unsecured claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive or retain any property under the plan of reorganization.
- Equity Interests. Either (i) each equity interest holder will receive or retain under the plan of reorganization property of a value equal to the greater of (a) the fixed liquidation preference or redemption price, if any, of such stock and (b) the value of the stock, or (ii) the holders of interests that are junior to the equity interests of the dissenting class will not receive or retain any property under the plan of reorganization.

The Debtors believe the Plan will satisfy both the “no unfair discrimination” requirement and the “fair and equitable” requirement notwithstanding that Class 6 (Equity Interests) and Class 15 (Other Equity Interests) are deemed to reject the Plan, because as to Class 6 (Equity Interests) and Class 15 (Other Equity Interests), there is no class of equal priority receiving more favorable treatment and no class that is junior to such a dissenting class will receive or retain any property on account of the claims or equity interests in such class.

XI.

ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not confirmed and consummated, the alternatives to the Plan are (i) liquidation of the Debtors under Chapter 7 and (ii) an alternative Chapter 11 plan of reorganization.

A. LIQUIDATION UNDER CHAPTER 7

If no plan can be confirmed, the Chapter 11 Cases may be converted to cases under Chapter 7, pursuant to which a trustee would be appointed to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a Chapter 7 liquidation would have on the recovery of holders of claims and equity interests and the Debtors' liquidation analysis are set forth in Section X above, entitled "CONFIRMATION OF THE PLAN OF REORGANIZATION"; Requirements for Confirmation of the Plan of Reorganization; Consensual Confirmation; Best Interests Test." The Debtors believe that liquidation under Chapter 7 would result in smaller distributions being made to creditors than those provided for in the Plan because of (i) the likelihood that the assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion over a shorter period of time, (ii) additional administrative expenses involved in the appointment of a trustee and (iii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the Debtors' operations. In a Chapter 7 liquidation, the Debtors believe that there would be no distribution to the holders of Unsecured Claims or the holders of Equity Interests.

B. ALTERNATIVE PLAN OF REORGANIZATION

If the Plan is not confirmed, the Debtors (or, if the Debtors' exclusive period in which to file a plan of reorganization has expired, any other party in interest) could attempt to formulate a different Chapter 11 plan of reorganization. Such a plan of reorganization might involve either a reorganization and continuation of the Debtors' business or an orderly liquidation of their assets under Chapter 11. With respect to an alternative plan, the Debtors have explored various alternatives in connection with the formulation and development of the Plan. The Debtors believe that the Plan, as described herein, enables creditors of the Debtors to realize the most value under the circumstances. In a liquidation under Chapter 11, the Debtors' assets would be sold in an orderly fashion over a more extended period of time than in a liquidation under Chapter 7, possibly resulting in somewhat greater (but indeterminate) recoveries than would be obtained in Chapter 7. Further, if a trustee were not appointed, because such appointment is not required in a Chapter 11 case, the expenses for professional fees would most likely be lower than those incurred in a Chapter 7 case. Although preferable to a Chapter 7 liquidation, the Debtors believe that any alternative liquidation under Chapter 11 is a much less attractive alternative to creditors of the Debtors than the Plan because of the greater return provided by the Plan.

XII.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion summarizes certain federal income tax consequences of the implementation of the Plan to the Debtors and to certain holders of Claims and Mortgage Certificates. The following summary does not address the federal income tax consequences to (i) holders whose

Claims are not impaired, (ii) holders of Claims and equity interests who are deemed to reject the Plan or (iii) the Investors.

The following summary is based on the Internal Revenue Code of 1986, as amended (the “*Tax Code*”), Treasury Regulations promulgated thereunder, judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service (the “*IRS*”), all as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the federal income tax consequences described below.

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. The Debtors have not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary generally does not address foreign, state or local tax consequences of the Plan, nor does it address the federal income tax consequences of the Plan to special classes of taxpayers (such as non-U.S. persons, foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, other financial institutions, small business investment companies, regulated investment companies, tax-exempt organizations (including, without limitation, certain pension funds), persons holding an equity interest as part of an integrated constructive sale or straddle, holders of residual interests in a real estate mortgage investment conduit and equity investors in pass-through entities).

Accordingly, the following summary of certain federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a holder of a Claim or Mortgage Certificate.

IRS Circular 230 Notice: To ensure compliance with IRS Circular 230, holders of Claims and equity interests in the Debtors and Mortgage Certificates are hereby notified that: (a) any discussion of federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by holders of Claims and equity interests in the Debtors or Mortgage Certificates for the purpose of avoiding penalties that may be imposed on them under the Tax Code; (b) such discussion is written in connection with the promotion or marketing by the Debtors of the transactions or matters addressed herein; and (c) holders of Claims and equity interests in the Debtors and Mortgage Certificates should seek advice based on their particular circumstances from an independent tax advisor.

A. CONSEQUENCES TO THE DEBTORS

Prior to the Effective Date, each of the Debtors other than the Regarded Debtors (as defined below) is treated as a “disregarded entity” for federal income tax purposes (the “*Disregarded Debtors*”). In general, for federal income tax purposes, items of income, gain, loss or deduction of a disregarded entity, and the related federal income tax consequences of such items, are the responsibility of the owner of the disregarded entity, not the disregarded entity itself. Accordingly, to the extent that the Plan would otherwise trigger federal income tax consequences to a Disregarded Debtor, the Debtors believe that the federal income tax consequences of the Plan will not be borne by any of the Disregarded Debtors, but instead will be borne by the deemed owners of the Disregarded Debtors, which for federal income tax purposes include ESI and Homestead. As discussed below, since Homestead is treated as a partnership for federal income tax purposes, its owners will ultimately bear their portion of the federal income tax consequences of the Plan. Nevertheless, it is conceivable that the IRS might attempt to hold NewCo or a Debtor liable for the federal income tax consequences of the transactions contemplated under the Investment and Standby Purchase Agreement and the Plan under a successor, transferee liability or similar theory. However, the Investment and Standby Purchase Agreement includes a closing condition

that provides that the Confirmation Order approving the Plan shall be in a form and substance approved by the Investors and shall provide, in relevant part, that (i) NewCo shall not be a successor to any of the Debtors in the Chapter 11 Cases by reason of any theory of law or equity, and (ii) NewCo and each of the Debtors shall not be a successor to ESI, and neither NewCo nor any of the Debtors shall have any successor or transferee liability of any kind, nature or character, including, without limitation, liabilities arising or resulting from or relating to the transactions contemplated under the Investment and Standby Purchase Agreement and the Plan (including all Plan Documents).

ESA Canada Trustee Inc., ESA Canada Beneficiary Inc., ESA 2007 Operating Lessee Inc., ESA 2005 Operating Lessee Inc., ESA Operating Lessee Inc., ESA P Portfolio Operating Lessee Inc., ESA Canada Operating Lessee Inc. and ESH/TN Member Inc. are each treated as an association taxable as a corporation for federal income tax purposes (collectively, the “**Regarded Corporate Debtors**”).

In addition, ESH/TN Properties LLC (“**ESH/TN**”) is a Mortgage Borrower that is treated as a partnership for federal income tax purposes (together with the Regarded Corporate Debtors, the “**Regarded Debtors**”). In general, for federal income tax purposes, the partners of a partnership, and not the partnership itself, are subject to taxation under the Tax Code on items of income, gain, loss or deduction of the partnership. Thus, the federal income tax consequences of the Plan will not be borne by ESH/TN. ESH/TN Member Inc., which is taxed as a corporation for federal income tax purposes, is a 1% partner in ESH/TN. Homestead, which is not a Debtor but which is also treated as a partnership for federal income tax purposes is deemed to own the remaining 99% interest in ESH/TN. The Plan contemplates that ownership of the underlying properties held by ESH/TN as a Mortgage Borrower will not change and such properties will continue to be deemed to be owned for federal income tax purposes by ESH/TN. Instead, under the Plan, the stock of ESH/TN Member Inc. will be cancelled and new shares of ESH/TN Member Inc. will be issued to NewCo. Under the Plan, the 99% interest in ESH/TN that is deemed to be held by Homestead will be cancelled and a new 99% interest will be issued to NewCo. The tax treatment of these transactions is not clear. However, as discussed in Section A.1, except for any possible cancellation of indebtedness income (“COD income”) relating to the 1% partnership interest in ESH/TN held by ESH/TN Member Inc., the federal income tax consequences of these transactions generally will be borne by Homestead and its owners.

The Debtors believe that, under the Plan, none of the Regarded Corporate Debtors (other than ESA Canada Beneficiary Inc. and ESH/TN Member Inc., as discussed in Section A.1) will bear the federal income tax consequences of the transactions contemplated under the Investment and Standby Purchase Agreement and the Plan. Moreover, the Regarded Corporate Debtors have not filed and will not file a consolidated income tax return with ESI and thus should not have liability under Treasury Regulation Section 1.1502-6 for the tax consequences of the transactions contemplated under the Investment and Standby Purchase Agreement and the Plan. Nevertheless, as noted above, it is conceivable that the IRS might attempt to hold the Regarded Corporate Debtors liable for the federal income tax consequences of the Plan under a successor, transferee liability or similar theory. However, the Investment and Standby Purchase Agreement includes a closing condition that provides that the Confirmation Order approving the Plan shall be in a form and substance approved by the Investors and shall provide, in relevant part, that (i) NewCo shall not be a successor to any of the Debtors in the Chapter 11 Cases by reason of any theory of law or equity, and (ii) NewCo and each of the Debtors shall not be a successor to ESI, and neither NewCo nor any of the Debtors shall have any successor or transferee liability of any kind, nature or character, including, without limitation, liabilities arising or resulting from or relating to the transactions contemplated under the Investment and Standby Purchase Agreement and the Plan (including all Plan Documents).

1. Cancellation of Debt

In general, Section 108 of the Tax Code provides that a debtor in a bankruptcy case may exclude COD income arising pursuant to a confirmed chapter 11 plan, but must reduce certain of its tax attributes – such as net operating loss (“**NOL**”) carryforwards and current year NOLs, capital loss carryforwards, tax credits, and tax basis in assets – by the amount of COD income incurred pursuant to the plan. The amount of COD income incurred is generally the amount by which the indebtedness discharged exceeds the value of any consideration given in exchange therefor. Certain statutory or judicial exceptions may apply to limit the amount of COD income incurred for federal income tax purposes. If advantageous, the borrower can elect to reduce the basis of depreciable property prior to any reduction in its NOL carryforwards or other tax attributes.

In contrast, the transfer of property to a creditor in satisfaction of nonrecourse debt secured by such property is treated as a sale or exchange transaction. In general, the amount of gain or loss that must be recognized by the debtor is equal to the difference between the amount of debt discharged and the adjusted tax basis of the property transferred to the creditor in satisfaction of such debt. Such gain or loss does not constitute COD income.

As noted above, ESA Canada Beneficiary Inc. and ESH/TN Member Inc. are Regarded Corporate Debtors. Although neither ESA Canada Beneficiary Inc. nor ESH/TN Member Inc. is a Mortgage Borrower, (i) ESA Canada Beneficiary Inc. is deemed to be a Mortgage Borrower for federal income tax purposes by virtue of its ownership of a Mortgage Borrower that is a Disregarded Debtor, and (ii) ESH/TN Member Inc., as a partner in a Mortgage Borrower, will bear the federal income tax consequences of the Plan to such Mortgage Borrower to the extent of its 1% partnership interest in such Mortgage Borrower. Under the Plan, the stock of ESA Canada Beneficiary Inc. and ESH/TN Member Inc. will be cancelled and new shares of stock of such Regarded Corporate Debtors will be issued to NewCo. For federal income tax purposes, ownership of the underlying properties held by the Mortgage Borrower will not change and such properties will continue to be deemed to be owned by ESA Canada Beneficiary Inc. and ESH/TN Member Inc. Under IRS Rev. Rul. 91-31, the cancellation of nonrecourse debt without a transfer of the underlying collateral generally results in COD income. Thus, it is expected that ESA Canada Beneficiary Inc. and ESH/TN Member Inc. will incur COD income as a result of the implementation of the Plan. Accordingly, as noted above, under Section 108 of the Tax Code, such COD income will be excluded from taxable income, but there will be corresponding reductions in the tax attributes of ESA Canada Beneficiary Inc. and ESH/TN Member Inc. Alternatively, the American Recovery and Reinvestment Act of 2009 permits ESA Canada Beneficiary Inc. and ESH/TN Member Inc. to elect to defer the inclusion of COD income resulting from the Plan, with the amount of COD income becoming includible in their income ratably over a five-taxable year period beginning in the fourth year after the COD income arises. The collateral tax consequences of making such election are complex. ESA Canada Beneficiary Inc. and ESH/TN Member Inc. are considering whether to make the deferral election in connection with its annual tax return preparation.

2. Potential Limitations on NOL Carryforwards and Other Tax Attributes

Following the Effective Date, any remaining NOL carryforwards and certain other tax attributes (including current year NOLs) of the Regarded Corporate Debtors allocable to periods prior to the Effective Date (collectively, “**pre-change losses**”) will be subject to limitation if Section 382 of the Tax Code applies as a result of the changes in ownership described below. Any Section 382 limitations apply in addition to, and not in lieu of, the use of attributes or the attribute reduction that results from the COD income arising in connection with the Plan.

Under Section 382 of the Tax Code, if a corporation undergoes an “ownership change” and the corporation does not qualify for (or elects out of) the special bankruptcy exception discussed below, the amount of its pre-change losses that may be utilized to offset future taxable income is subject to an annual limitation. The consummation of the transactions contemplated by the Plan would constitute an “ownership change” of each of the Regarded Corporate Debtors for these purposes.

In general, the amount of the annual limitation to which a corporation that undergoes an ownership change will be subject is equal to the product of (i) the fair market value of the stock of the corporation immediately before the ownership change (with certain adjustments) multiplied by (ii) the “long term tax exempt rate” in effect for the month in which the ownership change occurs (e.g., 4.03% for ownership changes occurring in March 2010). As discussed below, this annual limitation often may be increased in the event the corporation has an overall “built-in” gain in its assets at the time of the ownership change. For a corporation in bankruptcy that undergoes an ownership change pursuant to a confirmed bankruptcy plan, the fair market value of the stock of the corporation is generally determined immediately after (rather than before) the ownership change after giving effect to the discharge of creditors’ claims, but subject to certain adjustments; in no event, however, can the stock value for this purpose exceed the pre-change gross value of the corporation’s assets.

Any portion of the annual limitation that is not used in a given year may be carried forward, thereby adding to the annual limitation for the subsequent taxable year. However, if the corporation does not continue its historic business or use a significant portion of its historic assets in a new business for at least two years after the ownership change, or if certain shareholders claim worthless stock deductions and continue to hold their stock in the corporation at the end of the taxable year, the annual limitation resulting from the ownership change is reduced to zero, thereby precluding any utilization of the corporation’s pre-change losses, absent any increases due to recognized built-in gains discussed below. Generally, NOL carryforwards expire after 20 years.

Section 382 of the Tax Code also limits the deduction of certain “built-in” losses recognized subsequent to the date of the ownership change. If a loss corporation has a net unrealized built-in loss at the time of an ownership change (taking into account most assets and items of “built-in” income, gain, loss and deduction), then any built-in losses recognized during the following five years (up to the amount of the original net unrealized built-in loss) generally will be treated as pre-change losses and similarly will be subject to the annual limitation. Conversely, if the loss corporation has a net unrealized built-in gain at the time of an ownership change, any built-in gains recognized (or, according to an IRS notice, treated as recognized) during the following five years (up to the amount of the original net unrealized built-in gain) generally will increase the annual limitation in the year recognized, such that the loss corporation would be permitted to use its pre-change losses against such built-in gain income in addition to its regular annual allowance. In general, a loss corporation’s net unrealized built-in gain or loss will be deemed to be zero unless the actual value is greater than the lesser of (i) \$10 million or (ii) 15% of the fair market value of its assets (with certain adjustments) before the ownership change.

An exception to the foregoing annual limitation rules generally applies where qualified creditors of a debtor corporation receive, in respect of their claims, at least 50% of the vote and value of the stock of the reorganized debtor (or a controlling corporation if also in bankruptcy) pursuant to a confirmed chapter 11 plan. This exception may not be applicable in respect of the Regarded Corporate Debtors.

3. Alternative Minimum Tax

In general, a federal alternative minimum tax (“*AMT*”) is imposed on a corporation’s alternative minimum taxable income at a 20% rate to the extent that such tax exceeds the corporation’s regular federal income tax. For purposes of computing taxable income for AMT purposes, certain tax deductions and other beneficial allowances are modified or eliminated. In particular, even though a corporation otherwise might be able to offset all of its taxable income for regular tax purposes by available NOL carryforwards, only 90% of a corporation’s taxable income for AMT purposes may be offset by available NOL carryforwards (as computed for AMT purposes).

In addition, if a corporation undergoes an ownership change and is in a net unrealized built-in loss position (as determined for AMT purposes) on the date of the ownership change, the corporation’s aggregate tax basis in its assets is reduced for certain AMT purposes to reflect the fair market value of such assets as of the change date.

Any AMT that a corporation pays generally will be allowed as a nonrefundable credit against its regular federal income tax liability in future taxable years when the corporation is no longer subject to the AMT.

B. DISTRIBUTIONS TO HOLDERS OF CERTAIN CLAIMS AND MORTGAGE CERTIFICATES

1. Mortgage Facility Claim.

(a.) In the event that Class 2 accepts the Plan, the holder of the Allowed Mortgage Facility Claim shall receive (A) 100% of the Rights, and (B) on the Initial Distribution Date, 100% of the New Class A1 Mortgage Notes, 100% of the New Class A2 Mortgage Notes, 100% of the New Class A3 Mortgage Notes, 100% of the New Class A4 Mortgage Notes, 470,482 NewCo Common Interests (representing 39.282% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date, as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date), and 100% of the New Unsecured Notes.

New Unsecured Notes Election for Class B – G Mortgage Certificates. At the election of any holder of (i) a Class B - F Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of aggregate principal amount of New Unsecured Notes for each \$1.00 of face amount of the Class B – F Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests, and (ii) a Class G Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of New Unsecured Notes multiplied by the Class G Proportion, for each \$1.00 of face amount of the Class G Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests; *provided*, that, in the case of both (i) and (ii), the aggregate principal amount of all New Unsecured Notes received by all holders of Class B - G Mortgage Certificates in lieu of NewCo Common Interests does not exceed, in the aggregate, the New Unsecured Notes Cap. In the event the holders of Class B - G Mortgage Certificates collectively elect to receive an aggregate principal amount of New Unsecured Notes in excess of the New Unsecured Notes Cap, the New Unsecured Notes shall be allocated to the holders of Class B – G Mortgage Certificates in accordance with the respective priority of the Class B - G Mortgage Certificates until the New Unsecured Notes issued equals the New

Unsecured Notes Cap. Each holder of a Class B - G Mortgage Certificate electing to receive New Unsecured Notes shall receive on the Initial Distribution Date (A) its Pro Rata Share of New Unsecured Notes having an aggregate principal amount equal to the New Unsecured Notes Cap, *provided, however*, that in the case of holders of Class G Mortgage Certificates, the Pro Rata Share shall be calculated as provided in clause (ii) above, and (B) with respect to the Class B – F Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive, and with respect to the Class G Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) multiplied by the Class G Proportion for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive.

The New Securities shall be distributed by the Trustee as follows:

i. *Holders of Class A1 Mortgage Certificates.* Each holder of a Class A1 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A1 Mortgage Notes.

ii. *Holders of Class A2 Mortgage Certificates.* Each holder of a Class A2 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A2 Mortgage Notes.

iii. *Holders of Class A3 Mortgage Certificates.* Each holder of a Class A3 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A3 Mortgage Notes.

iv. *Holders of Class A4 Mortgage Certificates.* Each holder of a Class A4 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A4 Mortgage Notes.

v. *Holders of Class B- F Mortgage Certificates.* Each holder of a Class B - F Mortgage Certificate, shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to the Class of Mortgage Certificates of which such holder is a member pursuant to the Plan, subject to adjustment for the New Unsecured Note Election), and (B) on the Initial Distribution Date, other than NewCo as holder of the Investor Certificates, its Pro Rata Share (calculated as such holder's Pro Rata Share of the aggregate amount of all Class B - F Mortgage Certificates) of 408,097 NewCo Common Interests (representing approximately 34.073% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).

vi. *Holders of Class G Mortgage Certificates.* Each holder of a Class G Mortgage Certificate shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to holders of Class G Mortgage Certificates, subject to adjustment for the New Unsecured Note Election)), and on the Initial Distribution Date, and (B) its Pro Rata Share of 62,385 NewCo

Common Interests (representing approximately 5.209% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).

vii. *Holders of Class H Mortgage Certificates.* Each holder of a Class H Mortgage Certificate shall receive its Pro Rata Share of 32.4% of the New H - M Rights.

viii. *Holders of Class J Mortgage Certificates.* Each holder of a Class J Mortgage Certificate shall receive its Pro Rata Share of 20.6% of the New H - M Rights.

ix. *Holders of Class K Mortgage Certificates.* Each holder of a Class K Mortgage Certificate shall receive its Pro Rata Share of 29.4% of the New H - M Rights.

x. *Holders of Class L Mortgage Certificates.* Each holder of a Class L Mortgage Certificate shall receive its Pro Rata Share of 14.7% of the New H - M Rights.

xi. *Holders of Class M Mortgage Certificates.* Each holder of a Class M Mortgage Certificate shall receive its Pro Rata Share of 2.9% of the New H - M Rights.

(b) In the event that Class 2 rejects the Plan, the holder of the Allowed Mortgage Facility Claim shall receive, on the Initial Distribution Date, the New Alternate Notes in an aggregate principal amount not to exceed \$3,200,000,000, which represents the value of the collateral securing the Allowed Mortgage Facility Claim, and which New Alternate Notes shall bear interest at the rate of up to 5.34% per annum or such lower rate as shall be fixed by the Bankruptcy Court, and shall have a final maturity date that is nine (9) years after the Initial Distribution Date. The Debtors, with the consent of the Investors, reserve the right to seek confirmation of a plan under section 1129(b) of the Bankruptcy Code, pursuant to which the holder of the Allowed Mortgage Facility Claim will receive New Alternate Notes in an aggregate principal amount less than \$3,200,000,000, with the difference between the amount of such New Alternate Note and \$3,200,000,000 being provided in New Equity Securities, to the extent permitted by law. In either such circumstance, the Rights shall be extinguished.

The New Securities shall be distributed by the Trustee as follows:

i. *Holders of Class A1 – E Mortgage Certificates.* Each holder of a Class A1 - E Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the New Alternate Notes (calculated as such holder's Pro Rata Share of the aggregate principal amount of the Class A1 – E Mortgage Certificates).

ii. *Holders of Class F Mortgage Certificates.* Each holder of a Class F Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the Class F Alternate Note Proportion of the New Alternate Notes.

iii. *Holders of Class G Mortgage Certificates.* Each holder of a Class G Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of 15.0% of the New A Warrants.

(c) In the event that Class 4 accepts the Plan, the holder of the Mortgage Facility Deficiency Claims shall receive its Pro Rata Share of the New A Warrants.

The New A Warrants shall be distributed by the Trustee as follows:

- (i) *Holders of Class H Mortgage Certificates.* Each holder of a Class H Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of 27.5% of the New A Warrants.
- (ii) *Holders of Class J Mortgage Certificates.* Each holder of a Class J Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of 17.5% of the New A Warrants.
- (iii) *Holders of Class K Mortgage Certificates.* Each holder of a Class K Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of 25.0% of the New A Warrants.
- (iv) *Holders of Class L Mortgage Certificates.* Each holder of a Class L Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of 12.5% of the New A Warrants.
- (v) *Holders of Class M Mortgage Certificates.* Each holder of a Class M Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 2.5% of the New A Warrants.

(d) For federal income tax purposes, and as described below, the distributions shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Mortgage Facility Claim, immediately followed by a distribution of such assets to the holders of the Mortgage Certificates in complete liquidation of the holder of the Mortgage Claim, followed by a contribution of such assets to NewCo by the holders of the Mortgage Certificates receiving solely NewCo Common Interests, a sale of such assets to NewCo by the holders of Mortgage Certificates receiving only New A Warrants and/or New Debt Securities and a part contribution/part sale of such assets to NewCo by the holders of Mortgage Certificates receiving both NewCo Common Interests and other property. Pursuant to the Plan, all parties will be required to report for all federal income tax purposes in a manner consistent with the characterization of the distributions described above.

2. Allowed ESA UD Mortgage Claim.

Pursuant to the Plan, the holder of the Allowed ESA UD Mortgage Claim shall receive on the Initial Distribution Date, in complete satisfaction of its Claim, the New ESA UD Mortgage Note. For federal income tax purposes, and as described below, the distribution shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Allowed ESA UD Mortgage Claim followed by a sale of such assets to NewCo for the New ESA UD Mortgage Note.

3. General Unsecured Claims.

Pursuant to the Plan, a holder of a General Unsecured Claim shall receive on the Distribution Date, at its election, either (i) its Pro Rata Share of New A Warrants, or (ii) if its claim is \$100,000 or less, or it elects to reduce its claim to \$100,000, its Pro Rata Share of the Cash Distribution; provided, however, that if Class 4 accepts the Plan, all holders of General Unsecured Claims shall be deemed to have elected the Cash option. For purposes of calculating Pro Rata Share hereunder, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.

For federal income tax purposes, and as described below, to the extent a holder of a General Unsecured Claim receives New A Warrants, the distribution shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the General Unsecured Claim followed by a sale of such assets to NewCo for the New A Warrants.

C. CONSEQUENCES TO HOLDERS OF CERTAIN CLAIMS AND MORTGAGE CERTIFICATES

1. Consequences to Holders of Class A1-A4 Mortgage Certificates

Each holder of a Class A1-A4 Mortgage Certificate generally should recognize gain or loss in connection with its receipt for federal income tax purposes of an undivided interest in the underlying assets of NewCo in an amount equal to the difference between (x) the fair market value of the interest received in satisfaction of its Mortgage Certificate (other than any amount received in respect of accrued but unpaid interest) (see Section C.7 “**Valuation**”) and (y) the holder’s adjusted tax basis in its Mortgage Certificate (other than any basis attributable to accrued but unpaid interest, see Section C.10 “Accrued but Unpaid Interest”).

The deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo for the applicable New Debt Securities will be treated as a taxable exchange in which gain or loss will be recognized. A holder of a Class A1-A4 Mortgage Certificate should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the issue price (as determined for federal income tax purposes, as discussed below) of the applicable New Debt Securities received by the holder, which, as discussed in Section C.11 below, would be equal to either the fair market value or the stated principal amount (which may exceed fair market value) of such notes, over (ii) the fair market value of such holder’s undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8 “Character of Gain or Loss and Installment Method of Reporting”. If the issue price of the applicable New Debt Securities received is equal to its fair market value, a holder of a Class A1-A4 Mortgage Certificate generally should have no gain in respect of the receipt of the applicable New Debt Securities, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

2. Consequences to Holders of Class B-F Mortgage Certificates

Each holder of a Class B-F Mortgage Certificate generally should recognize gain or loss in connection with its receipt for federal income tax purposes of an undivided interest in the underlying assets of NewCo in an amount equal to the difference between (x) the fair market value of the interest received in satisfaction of its Mortgage Certificate (other than any amount received in respect of accrued but unpaid interest) (see Section C.7 “Valuation”) and (y) the holder’s adjusted tax basis in its Mortgage Certificate (other than any basis attributable to accrued but unpaid interest, see Section C.10 “Accrued but Unpaid Interest”).

The deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo will be treated in part as a tax-free contribution under Section 721 of the Tax Code to the extent NewCo Common Interests are received, and will be treated in part as a taxable exchange in which gain or loss will be recognized to the extent New Debt Securities, and possibly New B-G Rights (see Section C.14 “Tax Treatment of Rights”) are received.

A holder of a Class B-F Mortgage Certificate should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the sum of the issue price (as determined for federal income tax purposes, as discussed below) of the portion of the applicable New Debt Securities received by the holder, which, as discussed in Section C.11, would be equal to either the fair market value or the stated principal amount (which may exceed fair market value) of such notes and possibly the fair market value of the New B-G Rights received, over (ii) the fair market value of such holder's undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8 "Character of Gain or Loss and Installment Method of Reporting." If the issue price of the applicable New Debt Securities received are equal to their fair market value, a holder of a Class B-F Mortgage Certificate generally should have no gain in respect of the receipt of the New Debt Securities and/or New B-G Rights, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

3. Consequences to Holders of Class G Mortgage Certificates

Each holder of a Class G Mortgage Certificate generally should recognize gain or loss in connection with its receipt for federal income tax purposes of an undivided interest in the underlying assets of NewCo in an amount equal to the difference between (x) the fair market value of the interest received in satisfaction of its Mortgage Certificate (other than any amount received in respect of accrued but unpaid interest) (see Section C.7 "Valuation") and (y) the holder's adjusted tax basis in its Mortgage Certificate (other than any basis attributable to accrued but unpaid interest, see Section C.10 "Accrued but Unpaid Interest").

The deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo will be treated in part as a tax-free contribution under Section 721 of the Tax Code to the extent NewCo Common Interests are received, and will be treated in part as a taxable exchange in which gain or loss will be recognized to the extent New Unsecured Notes, New A Warrants and possibly New B-G Rights (see Section C.14 "Tax Treatment of Rights"), as applicable, are received.

A holder of a Class G Mortgage Certificate should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the sum of the fair market value of the New A Warrants, the issue price (as determined for federal income tax purposes, as discussed below) of the portion of the New Unsecured Notes received by the holder, which, as discussed in Section C.11, would be equal to either the fair market value or the stated principal amount (which may exceed fair market value) of such note and possibly the fair market value of New B-G Rights received over (ii) the fair market value of such holder's undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8 "Character of Gain or Loss and Installment Method of Reporting." If the issue price of the New Unsecured Notes received is equal to their fair market value, a holder of a Class G Mortgage Certificate generally should have no gain in respect of the receipt of the New Unsecured Notes, New B-G Rights, and New A Warrants, as applicable, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

4. Consequences to Holders of Class H-M Mortgage Certificates

Each holder of a Class H-M Mortgage Certificate generally should recognize gain or loss in connection with its receipt for federal income tax purposes of an undivided interest in the underlying assets of NewCo in an amount equal to the difference between (x) the fair market value of the interest received in satisfaction of its Mortgage Certificate (other than any amount received in respect of accrued but unpaid interest) (see Section C.7 "Valuation") and (y) the holder's adjusted tax basis in its Mortgage Certificate (other than any basis attributable to accrued but unpaid interest, see Section C.10 "Accrued but Unpaid Interest").

The deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo will be treated as a taxable exchange in which gain or loss will be recognized. A holder of a Class H-M Mortgage Certificate should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the fair market value of the New A Warrants and possibly New H-M Rights (see Section C.14 “Tax Treatment of Rights”) received over (ii) the fair market value of such holder’s undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8 “Character of Gain or Loss and Installment Method of Reporting.” Because the New A Warrants are to be valued (as discussed below) based on the assets of NewCo exchanged therefor, a holder of a Class H-M Mortgage Certificate generally should have no gain in respect of the receipt of New A Warrants and/or New B-G Rights, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

5. Consequences to the Holder of the Allowed ESA UD Mortgage Claim

The holder of the Allowed ESA UD Mortgage Claim generally should recognize gain or loss in connection with its receipt for federal income tax purposes of an undivided interest in the underlying assets of NewCo in an amount equal to the difference between (x) the fair market value of the interest received in satisfaction of its Allowed ESA UD Mortgage Claim (other than any amount received in respect of accrued but unpaid interest) (see Section C.7 “Valuation”) and (y) the holder’s adjusted tax basis in its Allowed ESA UD Mortgage Claim (other than any basis attributable to accrued but unpaid interest, see Section C.10 “Accrued but Unpaid Interest”).

The deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo will be treated as a taxable exchange in which gain or loss will be recognized. The holder of the ESA UD Mortgage Claim should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the issue price (as determined for federal income tax purposes, as discussed below) of the New ESA UD Mortgage Note received by the holder, which, as discussed in Section C.11, would be equal to either the fair market value or the stated principal amount (which may exceed fair market value) of such note, over (ii) the fair market value of such holder’s undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8 “Character of Gain or Loss and Installment Method of Reporting.” If the issue price of the New ESA UD Mortgage Note received is equal to its fair market value, the holder of the Allowed ESA UD Mortgage Claim generally should have no gain in respect of the receipt of the New ESA UD Mortgage Note, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

6. Consequences to Holders of General Unsecured Claims

Each holder of a General Unsecured Claim generally should recognize gain or loss in an amount equal to the difference, if any, between (i) the sum of the amount of cash (other than any cash received in respect of a Claim for accrued but unpaid interest) and if applicable, the fair market value of the undivided interest in the assets of NewCo received, and (ii) the holder’s adjusted tax basis in the Claim exchanged therefor (other than any basis attributable to accrued but unpaid interest, see Section C.10 “Accrued but Unpaid Interest”).

If a holder of a General Unsecured Claim receives New A Warrants, the deemed contribution for federal income tax purposes of the undivided interest in the assets of NewCo to NewCo will be treated as a taxable exchange in which gain or loss will be recognized. A holder of a General Unsecured Claim should recognize short-term gain in the taxable exchange in an amount equal to the excess, if any, of (i) the fair market value of the New A Warrants received over (ii) the fair market value of such holder’s undivided interest in the assets of NewCo deemed exchanged therefor. See Section C.8

“Character of Gain or Loss and Installment Method of Reporting.” Because the New A Warrants are to be valued (as discussed below) based on the assets of NewCo exchanged therefor, a holder of a General Unsecured Claim should have no gain in respect of the receipt of New A Warrants, as the holder should have received a fair market value tax basis in the interest deemed exchanged therefor.

7. Valuation

As soon as possible after the Effective Date, and to the extent required by Section 1060 of the Tax Code, the board of NewCo will determine the aggregate value of the underlying assets of NewCo as of the Effective Date and the portions of such value which are allocable, respectively, to the various classes of the New Equity Securities, New Debt Securities, the New ESA UD Mortgage Note and possibly the Rights. Such allocation will take into account the relative fair market values of the New Equity Securities, New Debt Securities, New ESA UD Mortgage Note and Rights, if any. The board of NewCo will apprise, in writing, all parties of such aggregate valuation and allocation. Pursuant to the Plan, all parties (including NewCo, the holders of Mortgage Certificates and the holder of the Allowed ESA UD Mortgage Claim) will be required to report consistently with the aggregate valuation and allocation for all federal income tax purposes.

8. Character of Gain or Loss and Installment Method of Reporting

Where gain or loss is recognized by a holder of a Mortgage Certificate or Claim in respect of its Mortgage Certificate or Claim, as applicable, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including, among others, the tax status of the holder, whether the Mortgage Certificate or Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Mortgage Certificate or Claim was acquired at a market discount, and whether and to what extent the holder previously had claimed a bad debt deduction. Where gain is recognized by a holder of a Mortgage Certificate, General Unsecured Claim or the ESA UD Mortgage Claim in respect of the deemed contribution of assets to NewCo, the character of such gain may be treated as short-term capital gain depending in part on the holder’s personal circumstances. Such gain may be reported on the installment method of reporting, provided that all applicable requirements of Section 453 of the Tax Code are satisfied. Holders of Mortgage Certificates or Claims are urged to consult their tax advisors regarding the character of any gain recognized on any taxable contribution to NewCo.

9. Initial Tax Basis

A holder’s initial tax basis in the NewCo Common Interests received should equal the fair market value of the NewCo Common Interests (as such value should be equal to the fair market value tax basis of the holder’s undivided interest in the underlying assets of NewCo treated as contributed therefor), increased for the portion of NewCo’s liabilities that is allocated to the holder. A holder’s tax basis in its portion of the New Debt Securities or New ESA UD Mortgage Note received should equal the issue price of such loans. A holder’s tax basis in its New A Warrants received should be equal to the fair market value of such New A Warrants. A holder’s holding period for any New Equity Securities, New Debt Securities, and/or the New ESA UD Mortgage Note, as applicable, generally should begin the day following the Effective Date.

10. Accrued but Unpaid Interest

Pursuant to the Plan, distributions to any holder of Allowed Claims will be allocated first to the principal amount of such Claims, as determined for federal income tax purposes, and thereafter, to

the portion of such Claim, if any, representing accrued but unpaid interest or original issue discount (“*OID*”). However, there is no assurance that the IRS would respect such allocation for federal income tax purposes.

In general, to the extent that any consideration received pursuant to the Plan by a holder of a Claim or Mortgage Certificate is received in satisfaction of accrued interest or *OID* during its holding period, such amount will be taxable to the holder as interest income (if not previously included in the holder’s gross income). Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed or amortized *OID* was previously included in its gross income and is not paid in full. However, the IRS has privately ruled that a holder of a security of a corporate issuer, in an otherwise tax-free exchange, could not claim a current deduction with respect to any unpaid *OID*. Accordingly it is also unclear whether, by analogy, a holder of a claim of a non-corporate issuer would be required to recognize a capital loss, rather than an ordinary loss, with respect to previously included *OID* that is not paid in full.

Each holder of a Mortgage Certificate or Claim is urged to consult its tax advisor regarding the allocation of consideration and the deductibility of accrued but unpaid interest for federal income tax purposes.

11. Ownership and Disposition of the New Debt Securities and New ESA UD Mortgage Note

The application of the *OID* provisions of the Tax Code, and the federal income tax treatment of stated interest, with respect to the New Debt Securities and New ESA Mortgage Note depends, in part, upon whether the respective “issue prices” of such New Debt Securities and New ESA UD Mortgage Note are equal to their stated principal amount. Pursuant to applicable Treasury Regulations, the respective “issue prices” of the New Debt Securities and New ESA UD Mortgage Note depend, in part, upon whether they are traded on an “established market” during the sixty-day period ending thirty days after the Effective Date (the “*Testing Period*”). If the New Debt Securities and the New ESA UD Mortgage Note are not traded on an “established market” during the Testing Period, the “issue price” of such non-traded instrument will depend on whether Section 1274(b)(3) of the Tax Code, as discussed below, applies to its issuance.

For this purpose, an “established market” includes, among other things, (i) a system of general circulation (including a computer listing disseminated to subscribing brokers, dealers, or traders) that provides a reasonable basis to determine fair market value by disseminating either recent price quotations or actual prices of recent sales transactions, and (ii) the ready availability of price quotations from dealers, brokers or traders. If the New Debt Securities or the New ESA UD Mortgage Note are traded on an established market during the Testing Period, the “issue price” will be equal to the fair market value of the New Debt Securities or the New ESA UD Mortgage Note, respectively, as the case may be.

Pursuant to Section 1274(b)(3) of the Tax Code and applicable Treasury Regulations, if the New Debt Securities or New ESA UD Mortgage Note are not traded on an established market during the Testing Period, the “issue price” of such non-traded instrument will still be equal to its fair market value if the fair market value of such instrument has been established in a “recent sales transaction” within the meaning of such provisions. Neither the Tax Code nor the Treasury Regulations expound on the meaning of a recent sales transaction. With respect to the New Debt Securities and New ESA UD Mortgage Note, because, as stated above, (i) the holders of the such notes should be treated as having first received undivided interests in the underlying assets of NewCo in a taxable transaction in which the

determination of gain or loss will be based on the fair market value of such interests, and (ii) the fair market value of such interests will be required to be allocated among the New Debt Securities, the New Equity Securities and the New ESA UD Mortgage Note, and possibly Rights for purposes of determining gain or loss and tax basis upon the transfer of such interests to NewCo, New Debt Securities might have an established fair market value by reason of recent sales transactions involving the undivided interests exchanged therefor. The determination whether to take such position on NewCo's tax return would be made by the management and board of NewCo. There is no assurance that the IRS would not take a contrary position.

If the New Debt Securities and New ESA UD Mortgage Note are not traded on an established market during the Testing Period and Section 1274(b)(3) of the Tax Code does not apply, the "issue price" of the New Debt Securities and New ESA UD Mortgage Note will be their respective stated principal amounts.

Each holder of a Claim or Mortgage Certificate that receives either New Debt Securities or the New ESA UD Mortgage Note is urged to consult its tax advisor regarding the determination of the "issue price" of the New Debt Securities and New ESA UD Mortgage Note, as applicable.

(i) Interest and OID on the New Debt Securities and New ESA UD Mortgage Note

A holder of New Debt Securities or the New ESA UD Mortgage Note will be required to include stated interest on the New Debt Securities or New ESA UD Mortgage Note in income in accordance with the holder's regular method of accounting for federal income tax purposes to the extent such stated interest is "qualified stated interest." Stated interest is "qualified stated interest" if it is unconditionally payable in cash at least annually. The stated interest payable on the New Debt Securities is qualified stated interest. Because terms of the New ESA UD Mortgage Note have not been finalized, it is unclear whether the interest payable on the New ESA UD Mortgage Note will be qualified stated interest.

If the issue price of any of the New Debt Securities or the New ESA UD Mortgage Note is less than its stated principal amount, the excess of the note's stated principal amount over its issue price should generally be treated as OID under the Tax Code. Each holder will be required to include in its gross income, as interest for federal income tax purposes, the portion of the OID (inclusive of all stated interest) that accrues while the holder held the note (including the day the note is acquired but excluding the day it is disposed of), regardless of such holder's normal method of tax accounting. Any OID will accrue over the term of the New Debt Securities or the New ESA UD Mortgage Note, as applicable, based on the constant yield method (with the amount of OID attributable to each accrual period allocated ratably to each day in such period). Accordingly, a holder may be required to recognize income prior to the receipt of cash payments attributable to such income.

(ii) Application of AHYDO Provisions of the Tax Code

Any OID on the New Debt Securities or the New ESA UD Mortgage Note generally would be amortizable by NewCo utilizing the constant yield method, and deductible as interest, unless the New Debt Securities or the New ESA UD Mortgage Note are treated as applicable high yield discount obligations ("**AHYDOs**") within the meaning of Section 163(e)(5) of the Tax Code. Although section 163(e)(5) of the Tax Code by its terms applies only to corporate issuers, the Treasury Regulations under the partnership provisions of the Tax Code state that the AHYDO rules also apply to debt instruments issued by partnerships to the extent that the partnership has corporate partners. The determination of whether the AHYDO rules will apply is complex. If the AHYDO rules were to apply to

any of the New Debt Securities or the New ESA UD Mortgage Note, the interest deduction otherwise allowable to a direct or indirect corporate member of NewCo with respect to amortizing OID would, at a minimum, be deferred until such OID is actually paid in cash, and may be disallowed in part. The portion of any interest deduction that will be disallowed is that portion that is equal to the fraction, the numerator of which is equal to the “disqualified yield” (*i.e.*, the excess of the yield to maturity of the New Debt Securities or the New ESA UD Mortgage Note over the sum of the applicable federal rate for the calendar month in which the Effective Date occurs plus six percentage points) and the denominator of which is equal to the total yield to maturity of the New Debt Security or New ESA UD Mortgage Note. The income of a corporate holder of a New Debt Security or the New ESA UD Mortgage Note with respect to the disqualified yield, if any, should be treated as a dividend for purposes of the dividends-received-deduction to the extent the corporate member has sufficient earnings and profits such that a similar distribution in respect of stock would have been treated as a dividend for federal income tax purposes. Presumably, a corporate holder’s entitlement to a dividends-received-deduction is subject to the normal holding period and taxable income requirements and other limitations applicable to dividends-received-deductions.

(iii) Sale, Exchange or Redemption of New Debt Securities or New ESA UD Mortgage Note

Unless a non-recognition provision applies, a holder generally will recognize gain or loss upon the sale, exchange or redemption of the New Debt Securities or the New ESA UD Mortgage Note equal to the difference, if any, between the holder’s adjusted tax basis and the amount realized on the sale, exchange or redemption. For this purpose, a holder’s adjusted tax basis generally will equal the holder’s initial tax basis, increased by the amount of any OID accrued (determined without adjustments) up through the date of the sale, exchange, or redemption, and decreased by the amount of any cash payments (other than qualified stated interest). Any gain or loss generally will be capital gain or loss.

12. Ownership and Disposition of NewCo Common Interests

Under current Treasury Regulations, a domestic entity that has two or more members and that is not organized as a corporation under federal or state law will generally be classified as a partnership for federal income tax purposes, unless it elects to be treated as a corporation. Thus, subject to the discussion of “publicly traded partnerships” below, and subject to the discussion regarding a possible election to be treated as a corporation after the Effective Date, NewCo will be treated as a partnership for federal income tax purposes.

Under the “publicly traded partnership” provisions of the Tax Code, an entity that would otherwise be treated as a partnership whose interests are considered to be publicly traded and does not meet a qualifying income test will be taxable as a corporation. It is unclear whether the NewCo Common Interests will be treated as publicly traded, though if NewCo operates its business in a similar manner to that of the Debtors prior to the Chapter 11 Cases, NewCo may meet the qualifying income test such that NewCo will not be treated as a corporation even if its interests are considered to be publicly traded. The NewCo Operating Agreement will prohibit the transfer of NewCo Common Interests if such transfer would jeopardize the status of NewCo as a partnership for federal income tax purposes (prior to an actual conversion for federal income tax purposes to corporate status). Any purported transfer in violation of such provisions will be null and void and would not be recognized by NewCo.

This discussion of the federal income tax consequences of the Plan assumes that NewCo will be treated as a partnership for federal income tax purposes.

As a partnership, NewCo itself will not be subject to federal income tax. Instead, NewCo will file an annual partnership information return with the IRS which will report the results of NewCo's operations. Each NewCo member will be required to report on its federal income tax return, and will be subject to tax in respect of, its distributive share of each item of NewCo's income, gain, loss, deduction and credit for each taxable year of NewCo ending with or within the member's taxable year. Each item generally will have the same character as if the member had realized the item directly. Members will be required to report these items regardless of the extent to which, or whether, they receive cash distributions from NewCo for such taxable year, and thus may incur income tax liabilities in excess of any distributions from NewCo. For purposes of calculating NewCo's items of income, gain, loss and deduction, upon the implementation of the Plan, because, as described in Sections B.1-5, the holders of Claims and Mortgage Certificates will be deemed to have (i) sold assets of NewCo to NewCo in a taxable transaction and/or (ii) contributed property with a fair market value basis to NewCo in a transaction providing for a carryover basis to NewCo, NewCo should have a new cost tax basis and holding period in the underlying assets of NewCo.

A member will be allowed to deduct its allocable share of NewCo losses (if any) only to the extent of such member's adjusted tax basis (discussed below) in its membership interest at the end of the taxable year in which the losses occur. In addition, various other limitations in the Tax Code may significantly limit a member's ability to deduct its allocable share of deductions and losses of NewCo against other income.

NewCo will provide each member with the necessary information to report its allocable share of NewCo's tax items for federal income tax purposes. However, no assurance can be given that NewCo will be able to provide such information prior to the initial due date of the members' federal income tax return and the members may therefore be required to apply to the IRS for an extension of time to file their tax returns.

The NewCo Operating Agreement will generally provide that the members will elect one member to be the "***Tax Matters Partner***" for NewCo, as such term is defined in Section 6231(a)(7) of the Tax Code. The Tax Matters Partner will have considerable authority under the Tax Code and the NewCo Operating Agreement to make decisions affecting the tax treatment and procedural rights of all members. The Tax Matters Partners of NewCo will likely decide how items will be reported on NewCo's federal income tax returns, and all members will be required under the Tax Code to treat the items consistently on their own returns, unless they file a statement with the IRS disclosing the inconsistency. In the event that the income tax returns of NewCo are audited by the IRS, the tax treatment of NewCo income and deductions generally will be determined at the NewCo level in a single proceeding, rather than in individual audits of the members.

A member generally will not recognize gain or loss on the receipt of a distribution of cash or property from NewCo (provided that the member is not treated as exchanging such member's share of NewCo's "unrealized receivables" and/or certain "inventory items" (as those terms are defined in the Tax Code, and together "ordinary income items") for other partnership property). A member, however, will recognize gain on the receipt of a distribution of money and, in some cases, marketable securities, from NewCo (including any constructive distribution of money resulting from a reduction of the member's share of the indebtedness of NewCo) to the extent such cash or the fair market value of such marketable securities distributed exceeds such member's adjusted tax basis in its membership interest. Such distribution would be treated as gain from the sale or exchange of a membership interest.

A member will recognize gain on the complete liquidation of its membership interest only to the extent the amount of money received exceeds its adjusted tax basis in its interest.

Distributions of certain marketable securities are treated as distributions of money for purposes of determining gain. Any gain recognized by a member on the receipt of a distribution from the Partnership generally will be capital gain, but may be taxable as ordinary income, either in whole or in part, under certain circumstances. No loss can be recognized on a distribution in liquidation of a membership interest, unless the member receives no property other than money and ordinary income items.

A member's adjusted tax basis in its membership interest generally will be equal to such member's initial tax basis, increased by the sum of (i) any additional capital contribution such member makes to NewCo, (ii) the member's allocable share of the income of NewCo, and (iii) increases in the member's allocable share of the indebtedness of NewCo, and reduced, but not below zero, by the sum of (iv) the member's allocable share of the losses of NewCo, and (v) the amount of money or the adjusted tax basis of property distributed to such member, including constructive distributions of money resulting from reductions in such member's allocable share of the indebtedness of NewCo.

A sale of all or part of a member's interest will result in the recognition of gain or loss in an amount equal to the difference between the amount of the sales proceeds or distribution (including any constructive distribution) and such member's adjusted tax basis for the portion of the interest disposed of. Any gain or loss recognized with respect to such a sale generally will be treated as capital gain or loss, and will be long-term capital gain or loss if the interest has been held for more than one year, except to the extent that the proceeds of the sale are attributable to a member's allocable share of certain ordinary income items of NewCo and such proceeds exceed the member's adjusted tax basis attributable to such ordinary income items. A member's ability to deduct any loss recognized on the sale of its membership interest will depend on the member's own circumstances and may be restricted under the Tax Code.

13. Ownership and Disposition of New A Warrants

The tax consequences relating to the ownership and disposition (including exercise) of the New A Warrants to purchase fully diluted interests of NewCo are not clear. The Treasury has promulgated proposed regulations dealing with the receipt, ownership and exercise of noncompensatory warrants issued by an entity that is treated as a partnership for federal income tax purposes. However, such regulations have not yet been finalized and, when finalized, such regulations are to be effective on a prospective basis. The description below is based on the proposed regulations. Accordingly, no assurance can be given that the IRS would not challenge the treatment described below and holders of Class G Mortgage Certificates and Class H-M Mortgage Certificates are urged to consult their tax advisors as to the tax consequences of the ownership and disposition of the New A Warrants.

The proposed regulations contain rules that would treat a holder of an option to acquire a partnership interest as being a partner in the partnership if the option provides the holder with rights that are substantially similar to the rights afforded to a partner and as of the date that the option is issued, transferred or modified, there is a strong likelihood that the failure to treat the holder as a partner would result in a substantial reduction in the present value of the partners' and the holder's aggregate tax liabilities. NewCo does not currently intend to treat holders of warrants as owning partnership interests by reason of their ownership of the warrants and the remainder of this discussion assumes that the holders of warrants would not be so treated. If the IRS were to successfully challenge this position, the consequences described below would not be applicable.

A holder of a warrant should not recognize gain or loss upon the exercise of the warrant. Upon exercise, the holder should be treated as having contributed to NewCo an amount equal to (i) the tax basis of the warrant plus (ii) the exercise price paid by the holder of the warrant. In addition, in connection with the exercise of the warrant, NewCo will revalue its property immediately following the

exercise of the warrant. After NewCo revalues its property, the warrant holder's capital account should reflect the entire amount that the holder would be entitled to if NewCo were to sell all of its assets for their fair market value in a taxable transaction and then liquidate. To the extent it would be necessary to transfer capital from or to other NewCo members' capital accounts in order for the warrant holder's initial capital account to reflect the amount described in the prior sentence, NewCo would be required to make special allocations of gross income (or gross loss), solely for tax purposes, to the holder of the warrant or to the other members to whom capital was transferred (or, in the case of gross loss, from whom capital was transferred) in an aggregate amount equal to the amount of capital that was transferred.

Upon the lapse or disposition of a warrant, the holder generally would recognize gain or loss equal to the difference between the amount received (zero in the case of a lapse) and its tax basis in the warrant. In general, such gain or loss would be a capital gain or loss, long term or short term, depending whether the requisite holding period was satisfied.

14. Tax Treatment of Rights

The characterization of the New B-G Rights and New H-M Rights for federal income tax purposes is uncertain.

Because the subscription rights are exercisable prior to the Effective Date, it is possible that a holder that exercises its subscription rights may be treated as receiving in respect of its Allowed Claim for federal income tax purposes additional NewCo Common Interests with a value equal to the value of such rights, rather than being treated as receiving and thereafter exercising the rights. A holder of a New B-G Rights or New H-M Rights (however characterized) generally will not recognize gain or loss upon the exercise of such right, and a holder's tax basis in the NewCo Common Interests received upon exercise of a such subscription right will be equal to the sum of (i) the amount paid for the NewCo Common Interests and (ii) the holder's tax basis, if any, in the subscription right due to the receipt of such right in partial satisfaction of its Allowed Claim. A holder's holding period in the NewCo Common Interests received upon exercise of a subscription right generally should commence the day following the Effective Date.

In contrast, it is uncertain whether a holder that does not exercise a subscription right should be treated as receiving anything of additional value in respect of its Claim, or should be treated as receiving a right that lapsed. In the latter event, the holder generally would recognize a loss equal to its tax basis in the subscription right, if any. In general, such gain or loss would be a capital gain or loss, and would be a short-term or long-term gain or loss depending on its holding period.

D. CONTINUATION OF EXISTING LEASING STRUCTURE

Investors intend to continue the existing structure in which certain "taxable REIT subsidiaries" (as defined under the Tax Code) owned by NewCo lease the properties from the Debtors and contract with HVM to manage the properties. This structure is necessary to enable one or more of the ultimate owners of InvestorCo to qualify as a REIT. In addition, to satisfy a REIT qualification requirement, HVM cannot be owned by NewCo. InvestorCo expects to cause NewCo to operate in a manner to permit continued REIT qualification for one or more of InvestorCo's ultimate owners and to minimize certain taxes that the Tax Code imposes on a REIT and its shareholders. In pursuing its objective of REIT qualification and minimizing taxes for one or more of InvestorCo's ultimate owners, InvestorCo may cause NewCo to make or hold certain investments through entities taxable as corporations for federal income tax purposes. If the investment is made through an entity treated for federal income tax purposes as a corporation, the corporation will be subject to federal income taxation on

its net income at regular corporate tax rates. Additionally, such corporation may be subject to state and local taxes and filing requirements in jurisdictions in which the investments held by the corporation are located or doing business. Persons who become members of NewCo should be aware that they may be adversely affected as a result of InvestorCo's effort to maintain REIT status and to minimize taxes that can apply at the REIT level and to the shareholders of the REIT.

E. INFORMATION REPORTING AND WITHHOLDING

All distributions to holders of Claims under the Plan are subject to any applicable tax withholding, including employment tax withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable withholding rate (currently 28%). Backup withholding generally applies if the holder (a) fails to furnish its social security number or other taxpayer identification number ("**TIN**"), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is a United States person that is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax and the appropriate information is supplied to the IRS. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

In addition, from an information reporting perspective, Treasury Regulations generally require disclosure by a taxpayer on its federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the holders' tax returns.

The foregoing summary has been provided for informational purposes only. All holders of Claims receiving a distribution under the Plan are urged to consult their tax advisors concerning the federal, state, local and foreign tax consequences applicable under the Plan.

XIII.

CONCLUSION

The Debtors believe that confirmation and implementation of the Plan is in the best interests of all creditors, and urge holders of impaired Claims in Classes 2, 3, 4 and 5 to vote to accept the Plan and to evidence such acceptance by returning their ballots so that they will be received no later than **4:00 p.m. (New York Time)** on [_____, 2010].

Dated: March 5, 2010

Respectfully submitted,

ESA PROPERTIES LLC
ESA 2005 PORTFOLIO LLC
ESA 2005- SAN JOSE LLC
ESA 2005- WALTHAM LLC
ESA ACQUISITION PROPERTIES LLC
ESA ALASKA LLC
ESA CANADA PROPERTIES BORROWER LLC
ESA FL PROPERTIES LLC
ESA MD BORROWER LLC
ESA MN PROPERTIES LLC
ESA P PORTFOLIO LLC
ESA P PORTFOLIO MD BORROWER LLC
ESA P PORTFOLIO PA PROPERTIES LLC
ESA P PORTFOLIO TXNC PROPERTIES LP
ESA PA PROPERTIES LLC
ESA TX PROPERTIES LP
ESH/HOMESTEAD PORTFOLIO LLC
ESH/HV PROPERTIES LLC
ESH/MSTX PROPERTY LP
ESH/TN PROPERTIES LLC
ESH/TX PROPERTIES LP
ESA MD BENEFICIARY LLC
ESA MD PROPERTIES BUSINESS TRUST
ESA P PORTFOLIO MD BENEFICIARY LLC
ESA P PORTFOLIO MD TRUST
ESA CANADA PROPERTIES TRUST
ESA CANADA TRUSTEE INC.
ESA CANADA BENEFICIARY INC.
ESA UD PROPERTIES LLC
ESA 2007 OPERATING LESSEE, INC.
ESA 2005 OPERATING LESSEE INC.
ESA OPERATING LESSEE INC.
ESA P PORTFOLIO OPERATING LESSEE INC.
ESA CANADA OPERATING LESSEE INC.
ESA P PORTFOLIO TXNC GP L.L.C.

ESA TXGP L.L.C.
ESH/MSTX GP L.L.C.
ESH/TXGP L.L.C.
ESH/TN MEMBER INC.

By: Name: David Lichtenstein
Title:

Exhibit A

The Plan

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
EXTENDED STAY INC., et al., : Chapter 11 Case No.
 : 09-13764 (JMP)
Debtors. : (Jointly Administered)
-----X

In re : Chapter 11 Case No.
ESH/MSTX GP L.L.C., : 10-10807 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESH/TXGP L.L.C., : 10-10808 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA TXGP L.L.C., : 10-10806 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA P Portfolio TXNC GP L.L.C., : 10-10805 (JMP)
Debtor. :
-----X

-----X
In re : Chapter 11 Case No.
ESH/TN Member Inc., : 10-10809 (JMP)
Debtor. :
-----X

**DEBTORS' FIRST AMENDED PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Attorneys for Debtors
and Debtors in Possession

Dated: March 5, 2010

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EXHIBIT LIST

Exhibit A – Debtors

Exhibit B – BHAC License Agreements

Exhibit C – Tier 1 Debtors

Exhibit D – Tier 2 Debtors

Exhibit E – Existing Letters of Credit

Exhibit F – Homestead Village License Agreements

Exhibit G – Mezzanine Facilities

Exhibit H – New Mortgage Notes

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
EXTENDED STAY INC., et al., : Chapter 11 Case No.
 : 09-13764 (JMP)
Debtors. : (Jointly Administered)
-----X

In re : Chapter 11 Case No.
ESH/MSTX GP L.L.C., : 10-10807 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESH/TXGP L.L.C., : 10-10808 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA TXGP L.L.C., : 10-10806 (JMP)
Debtor. :
-----X

In re : Chapter 11 Case No.
ESA P Portfolio TXNC GP L.L.C., : 10-10805 (JMP)
Debtor. :
-----X

-----X	
In re	: Chapter 11 Case No.
	:
ESH/TN Member Inc.,	: 10-10809 (JMP)
	:
Debtor.	:
	:
	:
-----X	

**DEBTORS’ FIRST AMENDED PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

ESA Properties LLC and its affiliated debtors set forth on Exhibit A annexed hereto (the “Debtors”) hereby propose the following chapter 11 plan pursuant to section 1121(a) of the Bankruptcy Code:

ARTICLE I

DEFINITIONS

A. Defined Terms. As used herein, the following terms shall have the respective meanings specified below:

1.1 **Administrative Bar Date Order** means an order of the Bankruptcy Court setting a deadline for the filing of certain Administrative Expense Claims.

1.2 **Administrative Expense Claim** means any Claim constituting a cost or expense of administration in the Debtors’ Chapter 11 Cases under section 503 of the Bankruptcy Code, including, without express or implied limitation, any actual and necessary costs and expenses of preserving the Estate of any Debtor, any expenses of professionals under sections 330 and 331 of the Bankruptcy Code, any actual and necessary costs and expenses of operating the businesses of any Debtor, any indebtedness or obligations incurred or assumed by any Debtor, as Debtor in Possession, in connection with the conduct of its business or for the acquisition or lease of property or the rendition of services, any allowed compensation or reimbursement of expenses under section 503(b)(2)-(6) of the Bankruptcy Code, and any fees or charges assessed against any Estate under section 1930, chapter 123, title 28, United States Code.

1.3 **Administrative Expense Creditor** means any Creditor entitled to payment of an Administrative Expense Claim.

1.4 **Administrative Expense Objection Deadline** means the first Business Day that is thirty (30) days after the Effective Date, as such date may be extended from time to time by order of the Bankruptcy Court.

1.5 **Affiliate** means, as to any Person, any other Person which, directly or indirectly, controls, or is controlled by, or is under common control with, such Person (for this purpose “control” (including, with its correlative meanings, “controlled by” and “under common control with”) shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities

or partnership or other ownership interests, by contract or otherwise).

1.6 *Allowed* means:

(a) With respect to any Claim (other than an Administrative Expense Claim), proof of which was filed within the applicable period of limitation fixed in accordance with Bankruptcy Rule 3003(c)(3) by the Bankruptcy Court, (i) as to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or a Final Order, such Claim to the extent asserted in the proof of such Claim, or (ii) as to which an objection has been interposed, such Claim to the extent that it has been allowed in whole or in part by a Final Order.

(b) With respect to any Claim (other than an Administrative Expense Claim), as to which no proof of claim was filed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or a Final Order, such Claim to the extent that it has been listed in the Schedules as liquidated in amount and not disputed or contingent.

(c) With respect to any Claim that is asserted to constitute an Administrative Expense Claim:

(i) that represents 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, any such Claim to the extent that such claim is reflected as a postpetition liability of any Debtor on such Debtor's books and records as of the Effective Date;

(ii) in an action against any Debtor pending as of the Confirmation Date or not required to be filed against any Debtor pursuant to the Administrative Bar Date Order, any such Claim to the extent (x) it is allowed by a final order of a court of competent jurisdiction or by agreement between NewCo and the holder of such Administrative Expense Claim, and (y) if any Debtor disputes that such claim is a cost or expense of administration under sections 503(b) and 507(a)(1) of the Bankruptcy Code, to the extent the Bankruptcy Court determines by a Final Order that it constitutes a cost or expense of administration under sections 503(b) and 507(a)(1) of the Bankruptcy Code;

(iii) timely filed in accordance with the Administrative Bar Date Order, any such Claim to the extent (i) no objection is interposed by the Administrative Expense Objection Deadline or (ii) if an objection is interposed by the Administrative Expense Objection Deadline, is allowed in whole or in part by a Final Order and only to the extent that such allowed portion is deemed, pursuant to a Final Order, to constitute a cost or expense of administration under sections 503(b) and 507(a)(1) of the Bankruptcy Code; or

(iv) that represents a Claim of a professional person employed under section 327, 328 or 1103 of the Bankruptcy Code that is required to apply to the Bankruptcy Court for the allowance of compensation and reimbursement of expenses pursuant to section 330 of the Bankruptcy Code or an Administrative Expense Claim arising under section 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 503(b)(6) of the Bankruptcy Code, such Claim to the extent it is allowed by a

Final Order.

1.7 **Allowed Amount** means the lesser of (a) the dollar amount of an Allowed Claim or (b) the Estimated Amount of such Claim. Unless otherwise specified herein or by Final Order, the Allowed Amount of an Allowed Claim shall not include interest accruing on such Allowed Claim from and after the Commencement Date.

1.8 **Ballot** means the form or forms distributed to holders of impaired Claims on which the acceptance or rejection of the Plan is to be indicated.

1.9 **Bankruptcy Code** means the Bankruptcy Reform Act of 1978, as amended, and as codified in title 11 of the United States Code, as applicable to the Chapter 11 Cases.

1.10 **Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York, having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made pursuant to section 157 of title 28 of the United States Code, the unit of such District Court constituted pursuant to section 151 of title 28 of the United States Code.

1.11 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as amended, as applicable to the Chapter 11 Cases, including the Local Rules of the Bankruptcy Court.

1.12 **BHAC** means BHAC Capital IV, LLC, a Delaware limited liability company.

1.13 **BHAC IP** means the Intellectual Property owned or controlled by BHAC.

1.14 **BHAC License Agreements** means, collectively, the license agreements described on Exhibit B annexed hereto, all as amended or modified from time to time, and all documents entered into in connection therewith.

1.15 **BHAC IP Transfer Agreement** shall have the meaning set forth in Section 6.14 hereof.

1.16 **Board of Managers** means the Board of Managers or other governing body of NewCo, as it may exist from time to time.

1.17 **Business Day** means any day other than a Saturday, a Sunday, or any other day on which commercial banks in New York, New York are required or authorized to close by law or executive order.

1.18 **Cash** means lawful currency of the United States of America.

1.19 **Cash Collateral Order** means has the meaning set forth in Section VII.B.1 of the Disclosure Statement.

1.20 **Cash Distribution** means cash in the amount of \$500,000 to be made available for distribution to holders of the General Unsecured Claims.

- 1.21 **Certificates** means the Certificates issued under the Mortgage Facility.
- 1.22 **Chapter 11 Cases** means the cases under chapter 11 of the Bankruptcy Code commenced by ESI, the Debtors and certain of their Affiliates on June 15, 2009 pending in the Bankruptcy Court as *In re Extended Stay Inc., et al.*, Case No. 09-13764 (JMP) (Jointly Administered).
- 1.23 **Claim** means a “claim,” as defined in section 101(5) of the Bankruptcy Code, against any Debtor.
- 1.24 **Class** means any group of Claims or Equity Interests classified by the Plan pursuant to section 1122(a)(1) of the Bankruptcy Code.
- 1.25 **Class A1 Mortgage Certificates** means the Class A1 Certificates issued under the Mortgage Facility.
- 1.26 **Class A1 – A4 Mortgage Certificates** means the Class A1 Mortgage Certificates, the Class A2 Mortgage Certificates, the Class A3 Mortgage Certificates, and the Class A4 Mortgage Certificates.
- 1.27 **Class A1 – E Mortgage Certificates** means the Class A1 Mortgage Certificates, the Class A2 Mortgage Certificates, the Class A3 Mortgage Certificates, the Class A4 Mortgage Certificates, the Class B Mortgage Certificates, the Class C Mortgage Certificates, the Class D Mortgage Certificates and the Class E Mortgage Certificates.
- 1.28 **Class A2 Mortgage Certificates** means the Class A2 Certificates issued under the Mortgage Facility.
- 1.29 **Class A3 Mortgage Certificates** means the Class A3 Certificates issued under the Mortgage Facility.
- 1.30 **Class A4 Mortgage Certificates** means the Class A4 Certificates issued under the Mortgage Facility.
- 1.31 **Class B Mortgage Certificates** means the Class B Certificates issued under the Mortgage Facility.
- 1.32 **Class B - E Mortgage Certificates** means the Class B Mortgage Certificates, the Class C Mortgage Certificates, the Class D Mortgage Certificates, and the Class E Mortgage Certificates.
- 1.33 **Class B - F Mortgage Certificates** means the Class B Mortgage Certificates, the Class C Mortgage Certificates, the Class D Mortgage Certificates, the Class E Mortgage Certificates, and the Class F Mortgage Certificates.
- 1.34 **Class B – F NewCo Common Interests** means the membership interests or, as applicable, other common equity interests, in NewCo which are to be authorized and issued to holders of Class B - F Mortgage Certificates pursuant to section 6.2(a)(v) of the Plan, without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants.

1.35 **Class B - G Mortgage Certificates** means the Class B Mortgage Certificates, the Class C Mortgage Certificates, the Class D Mortgage Certificates, the Class E Mortgage Certificates, the Class F Mortgage Certificates and the Class G Mortgage Certificates.

1.36 **Class B - M Mortgage Certificates** means the Class B Mortgage Certificates, the Class C Mortgage Certificates, the Class D Mortgage Certificates, the Class E Mortgage Certificates, the Class F Mortgage Certificates, the Class G Mortgage Certificates, the Class H Mortgage Certificates, the Class I Mortgage Certificates, the Class J Mortgage Certificates, the Class K Mortgage Certificates, the Class L Mortgage Certificates, and the Class M Mortgage Certificates.

1.37 **Class C Mortgage Certificates** means the Class C Certificates issued under the Mortgage Facility.

1.38 **Class D Mortgage Certificates** means the Class D Certificates issued under the Mortgage Facility.

1.39 **Class E Mortgage Certificates** means the Class E Certificates issued under the Mortgage Facility.

1.40 **Class F Mortgage Certificates** means the Class F Certificates issued under the Mortgage Facility.

1.41 **Class F Alternate Note Balance** means the amount of New Alternate Notes to be allocated to holders of the Class F Mortgage Certificates, which shall be equal to the principal amount of the New Alternate Mortgage Loan minus the face amount of the Class A1 – E Mortgage Certificates.

1.42 **Class F Alternate Note Proportion** means the Class F Alternate Note Balance as a percent of the New Alternate Mortgage Loan.

1.43 **Class G Mortgage Certificates** means the Class G Certificates issued under the Mortgage Facility.

1.44 **Class G NewCo Common Interests** means, the membership interests or, as applicable, other common equity interests, in NewCo which are to be authorized and issued to holders of Class G Mortgage Certificates pursuant to section 6.2(a)(vi) of the Plan; without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants.

1.45 **Class G Proportion** means, the value of the Class G NewCo Common Interests (calculated as the par value of each NewCo Common Interest multiplied by the number of Class G NewCo Common Interests) as a percent of the total claim amount of the holders of Class G Mortgage Certificates.

1.46 **Class H Mortgage Certificates** means the Class H Certificates issued under the Mortgage Facility.

1.47 **Class H – M Mortgage Certificates** means the Class H Mortgage Certificates, the Class I Mortgage Certificates, the Class J Mortgage Certificates, the Class K Mortgage Certificates, the Class L Mortgage Certificates, and the Class M Mortgage Certificates.

1.48 **Class I Mortgage Certificates** means the Class I Certificates issued under the Mortgage Facility.

1.49 **Class J Mortgage Certificates** means the Class J Certificates issued under the Mortgage Facility.

1.50 **Class K Mortgage Certificates** means the Class K Certificates issued under the Mortgage Facility.

1.51 **Class L Mortgage Certificates** means the Class L Certificates issued under the Mortgage Facility.

1.52 **Class M Mortgage Certificates** means the Class M Certificates issued under the Mortgage Facility.

1.53 **Commencement Date** means June 15, 2009.

1.54 **Confirmation Date** means the date on which the Confirmation Order has been entered by the Clerk of the Bankruptcy Court.

1.55 **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.56 **Contingent Claim** means any Claim, the liability for which attaches or is dependent upon the occurrence or happening, or is triggered by, an event, which event has not yet occurred, happened, or been triggered, as of the date on which such Claim is sought to be estimated or an objection to such Claim is filed, whether or not such event is within the actual or presumed contemplation of the holder of such Claim and whether or not a relationship between the holder of such Claim and the applicable Debtor now or hereafter exists or previously existed.

1.57 **Creditor** means any Person that holds an Allowed Claim.

1.58 **Creditors' Committee** means the Official Committee of Unsecured Creditors appointed pursuant to section 1102(a) of the Bankruptcy Code in the Chapter 11 Cases.

1.59 **Debtors** has the meaning set forth in the preamble hereof.

1.60 **Debtor in Possession** means each Debtor in its capacity as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

1.61 **Disallowed Claim** means a Claim or a portion of a Claim that is disallowed by an order of the Bankruptcy Court or such other court of competent jurisdiction.

1.62 **Disbursing Agent** means any Person in its capacity as a disbursing agent under Section 8.4 hereof.

1.63 **Disclosure Statement** means the disclosure statement related to the Plan filed with and approved by the Bankruptcy Court, as such disclosure statement may be amended, modified or supplemented.

1.64 **Disputed Claim** means any Claim (including any Administrative Expense Claim) against any Debtor, proof of which was timely and properly filed, which is

disputed under the Plan or as to which the Debtors have interposed a timely objection and/or request for estimation in accordance with section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018, which objection and/or request for estimation has not been withdrawn or determined by a Final Order, and any Claim proof of which was required to be filed by order of the Bankruptcy Court but as to which a proof of claim was not timely or properly filed. A Claim that is disputed by the Debtors as to its amount only shall be deemed Allowed in the amount the Debtors admit owing, if any, and disputed as to the excess.

1.65 ***Distribution*** means the payment or distribution under the Plan of property or interests in property to the holders of Allowed Claims.

1.66 ***Distribution Date*** means each of (a) the Initial Distribution Date, (b) the first Business Day after the end of the months of March and September, commencing with the first such date to occur after the Effective Date, and (c) the Final Distribution Date.

1.67 ***Effective Date*** means a Business Day on or after the Confirmation Date selected by the Debtors and the Investors on which (i) all of the conditions precedent to the effectiveness of the Plan specified in Section 9.1 have been satisfied or waived and (ii) no stay of the Confirmation Order is in effect.

1.68 ***Election Form*** means the form that the holder of a Class B – G Mortgage Certificate shall be required to complete and return to the Subscription Agent if such holder wishes to make the New Unsecured Notes Election.

1.69 ***Election Period*** means the period during which the New Unsecured Notes Election may be exercised.

1.70 ***Equity Interest*** means the interests of any holder of an equity security of any of the Debtors represented by any issued and outstanding shares of common stock or preferred stock, or any membership interest, partnership interest or other instrument evidencing a present ownership interest in any of the Debtors, including any option, warrant, or right, contractual or otherwise, to acquire any such interest.

1.71 ***ESA Canada Properties Borrower Interests*** means the limited liability company interests of ESA Canada Properties Borrower LLC, authorized pursuant to its limited liability company agreement, as in effect immediately prior to the Effective Date.

1.72 ***ESA Canada Properties Interests*** means the shares of beneficial interest of ESA Canada Properties Trust, authorized pursuant to its trust agreement, as in effect immediately prior to the Effective Date.

1.73 ***ESA MD Borrower Interests*** means the limited liability company interests of ESA MD Borrower LLC, authorized pursuant to its limited liability company agreement, as in effect immediately prior to the Effective Date.

1.74 ***ESA MD Properties Trust Certificate*** means the certificate of ESA MD Properties Business Trust, authorized pursuant to its trust agreement, as in effect immediately prior to the Effective Date.

1.75 ***ESA P Portfolio MD Borrower Interests*** means the limited liability company interests of ESA P Portfolio MD Borrower LLC, authorized pursuant to its limited

liability company agreement, as in effect immediately prior to the Effective Date.

1.76 **ESA P Portfolio MD Trust Certificate** means the certificate of ESA P Portfolio MD Trust, authorized pursuant to its trust agreement, as in effect immediately prior to the Effective Date.

1.77 **ESA UD** means ESA UD Properties LLC, a Delaware limited liability company.

1.78 **ESA UD Mortgage Claim** means the Claim of Bank of America, N.A. under the ESA UD Mortgage Facility.

1.79 **ESA UD Mortgage Facility** means the Loan Agreement, dated February 14, 2008, among ESA UD, ESA 2007 Operating Lessee Inc. and Bank of America, N.A.

1.80 **Escrow Account** means the bank account to be established by the Debtors for the purpose of holding all amounts paid by Rights Offering Participants in connection with the exercise of the Rights pursuant to the Rights Offering.

1.81 **ESH/ESA General Partnership Interests** means the 1% general partnership interests in ESH/MSTX Property L.P., ESH/TX Properties L.P., ESA TX Properties L.P., and ESA P Portfolio TXNC Properties L.P., held by ESH/MSTX GP L.L.C., ESH/TXGP L.L.C., ESA TXGP L.L.C., and ESA P Portfolio TXNC GP L.L.C. respectively, as authorized pursuant to the limited partnership agreements of ESH/MSTX Property L.P., ESH/TX Properties L.P., ESA TX Properties L.P., and ESA P Portfolio TXNC Properties L.P., as in effect immediately prior to the Effective Date.

1.82 **ESH/TN Properties Membership Interest** means the 1% membership interest in ESH/TN Properties L.L.C. held by ESH/TN Member Inc., authorized pursuant to the limited liability company agreement of ESH/TN Properties L.L.C., as in effect immediately prior to the Effective Date.

1.83 **ESI** means Extended Stay Inc., a Delaware corporation.

1.84 **Estate** means the estate of each Debtor as created under section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

1.85 **Estimated Amount** means the estimated dollar value of an Unliquidated Claim, Disputed Claim or Contingent Claim pursuant to section 502(c) of the Bankruptcy Code or as otherwise agreed to between the holder of such Claim and the applicable Debtor or NewCo, or as otherwise determined by the Bankruptcy Court.

1.86 **Existing Equity** means the Equity Interest of each of the Debtors, other than the Tier 2 Debtors, authorized pursuant to its certificate of incorporation or other organizational documents, as in effect immediately prior to the Effective Date.

1.87 **Existing Letters of Credit** means, collectively, the letters of credit described on Exhibit E annexed hereto, all as amended or modified from time to time, and all documents entered into in connection therewith.

1.88 **Expiration Date** means the date that is five (5) Business Days after the

deadline for voting on the Plan, which date shall be the deadline for accepting the Rights Offering as specified in the Ballot and the Rights Certificate, as such date may be extended from time to time by the Debtors with the approval of the Investors, such approval not to be unreasonably withheld.

1.89 **Final Distribution Date** means a date on or after the Initial Distribution Date and after all Disputed Claims have become either Allowed Claims or Disallowed Claims that is selected by NewCo in its discretion but, in any event, is no later than thirty (30) days thereafter, or such later date as the Bankruptcy Court may establish, upon request by NewCo, for cause shown.

1.90 **Final Order** means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases, which has not been reversed, vacated, or stayed, and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired, and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument, or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order shall not cause such order to not be a Final Order.

1.91 **G&A Reimbursement Agreements** means the G&A Reimbursement Agreements entered into between HVM and one or more of the Debtors, as the same have been amended from time to time.

1.92 **General Unsecured Claims** means any Claim other than an Administrative Expense Claim, a Priority Tax Claim, a Priority Claim, a Secured Claim or the Mortgage Facility Deficiency Claim.

1.93 **Guaranty** means the Guaranty Agreement, dated as of June 11, 2007, by Lightstone Holdings LLC, HVM Manager Owner, ESI and Homestead in respect of the obligations of the borrowers under the Mortgage Facility and the Mezzanine Facilities.

1.94 **Guaranty Claim** means any rights to the payment of damages, claims, causes of action, charges, suits, demands, defaults, rights of recovery, assessments, rights of set-off or rights of recoupment arising under or relating to the Guaranty (whether relating to the Mortgage Facility or the Mezzanine Facilities and whether paid prior to or following the Effective Date) as a result of the commencement of any of the Chapter 11 Cases.

1.95 **Homestead** means Homestead Village L.L.C., a Delaware limited liability company.

1.96 **Homestead IP** means the Intellectual Property owned or controlled by Homestead.

1.97 **Homestead IP Abandonment Motion** means the motion filed by

Homestead on or about the date of entry of the order of the Bankruptcy Court approving the Disclosure Statement pursuant to which Homestead will have requested entry of an order authorizing Homestead to abandon all of its rights, title and interests in the Homestead IP to NewCo pursuant to Section 554 of the Bankruptcy Code.

1.98 **Homestead Village License Agreements** means, collectively, the license agreements described on Exhibit F annexed hereto, all as amended or modified from time to time, and all documents entered into in connection therewith.

1.99 **HVM** means HVM L.L.C., a Delaware limited liability company.

1.100 **HVM Manager** means HVM Manager L.L.C., a Delaware limited liability company and the manager of HVM.

1.101 **HVM Manager Owner** means David Lichtenstein.

1.102 **Impaired** means, with respect to any Class of Claims or Equity Interests, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

1.103 **Initial Distribution Date** means a date after the Effective Date that is selected by NewCo in its discretion but, in any event, is no later than five (5) days after the Effective Date, or such later date as the Bankruptcy Court may establish upon request by NewCo, for cause shown.

1.104 **Intellectual Property** means, collectively, patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, domain names, copyrights, licenses and know-how (including, without limitation, trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) and any registrations or applications to register the foregoing.

1.105 **Internal Revenue Code** means the Internal Revenue Code of 1986, as amended from time to time, and any applicable rulings, Treasury Regulations, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or the IRS.

1.106 **Investment** means the investment that is to be made by InvestorCo as further described in Section 6.7 hereof.

1.107 **Investment and Standby Purchase Agreement** means the agreement dated March 5, 2010 by and among the Debtors, HVM Manager, HVM and the Investors.

1.108 **Investors** means, collectively, Centerbridge Partners, L.P. and Paulson & Co. Inc., each on behalf of certain investment funds and accounts managed by them.

1.109 **Investor Certificates** means those Certificates beneficially owned by each of the Investors or on behalf of certain of their investment funds or accounts managed by each of them, that shall be transferred to InvestorCo on or prior to the Expiration Date.

1.110 **InvestorCo** means a newly formed Delaware limited liability company, or such alternate corporate or other organizational entity that may be selected by the Investors, to

be organized prior to the Effective Date and whose membership interests are directly or indirectly held and controlled by the Investors.

1.111 **IRS** means the United States Internal Revenue Service.

1.112 **Merrill Swap Agreement** means the Master Agreement, dated August 28, 2007, by and among Merrill Lynch Capital Services, Inc. and Wachovia Bank Commercial Mortgage Trust, Commercial Mortgage Pass Through Certificates, Series 2007-ESH Trust, and all Schedules thereto, including the Elections and Variables to the 1994 ISDA Credit Support Annex.

1.113 **Mezzanine Facilities** means, collectively, the mezzanine loan facilities described on Exhibit G annexed hereto, all as amended or modified from time to time, and all documents entered into in connection therewith.

1.114 **Mortgage Certificate** means a mortgage certificate that was issued in connection with the Mortgage Facility.

1.115 **Mortgage Facility Claim** means the Secured Claim of the Trustee under the Mortgage Facility.

1.116 **Mortgage Facility** means the Mortgage Loan Agreement, dated as of June 11, 2007, by and among the Borrowers listed on Schedule 1.1(a) thereto and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc. and Bank of America, N.A., as Lenders, as amended or modified from time to time and all documents entered into in connection therewith.

1.117 **Mortgage Facility Deficiency Claim** means the Claim of the Trustee in respect of the Mortgage Facility, to the extent that the value of the collateral for the Mortgage Facility is less than \$4.1 billion.

1.118 **New A Warrants** means the warrants to acquire NewCo Common Interests, substantially in the form to be set forth in the Plan Supplement.

1.119 **New Alternate Mortgage Loan** means the amended and restated Mortgage Loan Agreement pursuant to which the New Alternate Notes shall be issued, substantially in the form to be set forth in the Plan Supplement, by and among NewCo, as borrower, and the lenders thereunder.

1.120 **New Alternate Notes** means the new notes to be issued pursuant to the New Alternate Mortgage Loan to the holder of the Allowed Mortgage Facility Claim pursuant to Section 4.2(b)(ii) hereof in the event that Class 2 rejects the Plan.

1.121 **New B Warrants** means the warrants to acquire NewCo Common Interests, substantially in the form to be set forth in the Plan Supplement, and as further described in Section 6.3(F) and Section 6.14 hereof.

1.122 **New B – G Rights** means Rights which may be used by holders of Class B – G Mortgage Certificates to subscribe for NewCo Common Interests that have an aggregate Subscription Price of \$212,000,000.

1.123 ***New Class A1 Mortgage Notes*** means the A1 notes issued pursuant to Tranche A of the New Mortgage Loan.

1.124 ***New Class A2 Mortgage Notes*** means the A2 notes issued pursuant to Tranche B of the New Mortgage Loan.

1.125 ***New Class A3 Mortgage Notes*** means the A3 notes issued pursuant to Tranche C of the New Mortgage Loan.

1.126 ***New Class A4 Mortgage Notes*** means the A4 notes issued pursuant to Tranche D of the New Mortgage Loan.

1.127 ***New Debt Securities*** means, collectively, the New Class A1 Mortgage Notes, the New Class A2 Mortgage Notes, the New Class A3 Mortgage Notes, the New Class A4 Mortgage Notes and the New Unsecured Notes, or, as applicable, the New Alternate Notes.

1.128 ***New Debtor Equity*** means the common stock, preferred stock, limited liability company interests or limited or general partnership interests, as the case may be, of each of the Debtors, other than the Tier 2 Debtors, the ESH/ESA General Partnership Interests and the ESH/TN Properties Membership Interests, which is to be authorized and issued pursuant to the Plan.

1.129 ***New Equity Securities*** means, collectively, the NewCo Common Interests, the New A Warrants and the New B Warrants.

1.130 ***New ESA UD Mortgage Facility*** means the new mortgage facility, in the principal amount of \$5,000,000 memorialized in a loan agreement, substantially in the form to be set forth in the Plan Supplement, by and among ESA UD, as borrower, and the lender thereunder.

1.131 ***New ESA UD Mortgage Note*** means the note to be issued to ESA UD pursuant to the New ESA UD Mortgage Facility in the principal amount of \$5,000,000, bearing interest at the rate of 5.0% per annum and due and payable 5 years from the Effective Date.

1.132 ***New H – M Rights*** means Rights which may be used by holders of Class H – M Mortgage Certificates to subscribe for NewCo Common Interests that have an aggregate Subscription Price of \$13,000,000.

1.133 ***New Mortgage Loan*** means the amended and restated Mortgage Facility comprising Tranche A, Tranche B, Tranche C and Tranche D, in the aggregate principal amount of \$2,547,297,223, in the amounts and bearing the rates of interest set forth on Exhibit H hereof, subject to adjustment based on the application of adequate protection payments to the principal amount of the New Mortgage Notes, as memorialized in the amended and restated Mortgage Loan Agreement, substantially in the form to be set forth in the Plan Supplement, by and among NewCo, as borrower, and the lenders thereunder.

1.134 ***New Mortgage Notes*** means the New Class A1 Mortgage Notes, the New Class A2 Mortgage Notes, the New Class A3 Mortgage Notes, and the New Class A4 Mortgage Notes.

1.135 ***New Securities*** means, collectively, New Equity Securities and New Debt Securities.

1.136 **New Trustee** means the indenture trustee for the New Unsecured Notes, to be identified in the Plan Supplement.

1.137 **New Unsecured Notes Indenture** means the indenture, substantially in the form to be set forth in the Plan Supplement, by and between NewCo, as the issuer, and the New Trustee, pursuant to which the New Unsecured Notes will be issued.

1.138 **New Unsecured Notes** means the unsecured notes, in the aggregate principal amount of up to \$225,000,000, to be issued pursuant to the New Unsecured Notes Indenture.

1.139 **New Unsecured Notes Cap** means \$225,000,000.

1.140 **New Unsecured Notes Election** means the election for holders of Class B – G Mortgage Certificates set forth in Section 4.2(c) to receive New Unsecured Notes in lieu of NewCo Common Interests.

1.141 **New Unsecured Notes Election Date** means the date that is the deadline for voting on the Plan fixed by the Bankruptcy Court, or such later date fixed by the Debtors with the approval of the Investors, such approval not to be unreasonably withheld.

1.142 **NewCo** means a newly formed Delaware limited liability company, or such alternate corporate or other organizational entity that may be selected by the Investors, to be organized as of the Effective Date in accordance with Section 6.6 hereof, or any successors in interest thereto, from and after the Effective Date.

1.143 **NewCo Certificate of Formation** means the Certificate of Formation of NewCo, substantially in the form to be set forth in the Plan Supplement.

1.144 **NewCo Common Interests** means the membership interests or, as applicable, other common equity interests, in NewCo, having a stated value of \$1,000 per membership interest, which are to be authorized and issued pursuant to the Plan.

1.145 **NewCo IP Note** means the promissory note, in the principal amount of NewCo's bid at the section 363 sale of the Homestead IP conducted pursuant to section 6.14(b) of the Plan, to the extent such bid is successful, which note shall have terms substantially similar to the terms of the New Alternate Notes.

1.146 **NewCo Management Incentive Plan** means the NewCo Management Incentive Plan, substantially in the form to be set forth in the Plan Supplement.

1.147 **NewCo Operating Agreement** means the Operating Agreement of NewCo, substantially in the form to be set forth in the Plan Supplement.

1.148 **Other Existing Equity Interests** means the Equity Interests in ESH/MSTX Property L.P., ESH/TX Properties L.P., ESA TX Properties L.P., ESA P Portfolio TXNC Properties L.P. and ESH/TN Properties L.L.C., other than the ESH/ESA General Partnership Interests and the ESH/TN Properties Membership Interest.

1.149 **Person** means an individual, corporation, partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated

organization, government or any political subdivision thereof, or any other entity or group.

1.150 **Plan** means this plan of reorganization under chapter 11 of the Bankruptcy Code, including the Plan Documents, the Plan Supplement, and the Exhibits to the Plan annexed hereto, as the same may be amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms of this Plan, which amendments shall be reasonably acceptable to the Investors.

1.151 **Plan Documents** means the documents to be executed, delivered, assumed, and/or performed in conjunction with the consummation of the Plan on the Effective Date.

1.152 **Plan Supplement** means the compilation of documents and forms of documents, schedules and exhibits, each in form and substance reasonably acceptable to the Investors, to be filed on or before the date that is ten (10) days prior to the last day on which votes to accept or reject the plan are accepted and which may be amended from time to time until the Confirmation Date.

1.153 **Priority Claim** means any Claim to the extent such claim is entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than an Administrative Expense Claim or Priority Tax Claim.

1.154 **Priority Tax Claim** means an unsecured Claim of a governmental unit of a kind specified in section 507(a)(8) of the Bankruptcy Code.

1.155 **Pro Rata Share** means (i) with respect to Allowed Claims, the ratio (expressed as a percentage) of the amount of an Allowed Claim in a Class (or, with respect to any New Securities received by more than one Class, the applicable Classes) to the aggregate amount of all Allowed Claims in the same Class (or applicable Classes), and (ii) with respect to the Certificates, the ratio (expressed as a percentage) of the amount of a Certificate in a class of Certificates to the aggregate amount of all Certificates in the same class of Certificates.

1.156 **Purchase Notice** has the meaning set forth in Section 6.8(g) hereof.

1.157 **Record Date** means the date to be established by the Bankruptcy Court for purposes of determining those holders of allowed claims that are entitled to vote to accept or reject this Plan.

1.158 **Registration Rights Agreement** means the registration rights agreement to be entered into by NewCo and the Investors (or InvestorCo) and included in the Plan Supplement.

1.159 **Released Parties** means (i) the Debtors, (ii) NewCo, (iii) each member of the Creditors' Committee, (iv) the Investors, (v) BHAC (provided that BHAC has entered into the BHAC IP Transfer Agreement as provided in Section 6.14 herein), (vi) HVM, (vii) HVM Manager, (viii) HVM Manager Owner, (ix) the Special Servicer, (x) the Trustee, (xi) the Successor Trustee, (xii) Lightstone Holdings LLC, (xiii) InvestorCo, and (xiv) any present or former director, manager, officer, member, equity holder (and their respective Affiliates), employee, agent, financial advisor, partner, Affiliate, attorney, other professional advisor or representative (and their respective Affiliates) of the persons or parties described in clauses (i) through (xiv) hereof or of any Affiliate thereof.

1.160 **Reorganized Debtors** means the Debtors, as reorganized as of the Effective Date in accordance with this Plan, and their successors.

1.161 **Rights** means the non-transferable subscription rights of Rights Holders to purchase NewCo Common Interests in connection with the Rights Offering on the terms and subject to the conditions set forth in Section 6.8 hereof.

1.162 **Rights Certificate** means a certificate representing the Rights, which certificate shall provide (i) a place whereby each Rights Offering Participant may indicate its commitment to exercise all or a portion of its Rights, and (ii) instructions for the exercise of the Rights.

1.163 **Rights Holder** means a holder of a Class B – M Mortgage Certificate as of the Subscription Commencement Date, provided that if Class 2 votes to reject the Plan, any such holder will cease to be a Rights Holder and the Rights Offering will be terminated and canceled.

1.164 **Rights Offering** means the offering of Rights to the holders of Class B – M Mortgage Certificates to purchase NewCo Common Interests at the Subscription Price and for an aggregate purchase price equal to the Rights Offering Amount as further described in Section 6.8 hereof.

1.165 **Rights Offering Amount** means, if Class 2 votes to accept the Plan, \$225,000,000 and, if Class 2 votes to reject the Plan, \$0.

1.166 **Rights Offering Payment Date** means the date and time by which payments in connection with the Rights Offering must be made, which date shall be no later than the Expiration Date.

1.167 **Rights Offering Participant** means a Rights Holder which exercises Rights in connection with the Rights Offering.

1.168 **Satisfaction Notice** has the meaning set forth in Section 6.8(g) hereof.

1.169 **Schedules** means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtors with the Bankruptcy Court on September 28, 2009, as required by section 521 of the Bankruptcy Code and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been and may be amended by the Debtors from time to time in accordance with Bankruptcy Rule 1009.

1.170 **Secured Claim** means any Claim to the extent reflected in the Schedules or a proof of claim as a secured Claim, which is secured by a Lien on Collateral to the extent of the value of such Collateral, as determined in accordance with section 506(a) of the Bankruptcy Code, or, in the event that such Claim is subject to a permissible setoff under section 553 of the Bankruptcy Code, to the extent of such permissible setoff.

1.171 **Securities Act** means the Securities Act of 1933, as amended.

1.172 **Special Servicer** means TriMont Real Estate Advisors, Inc., or any successor thereto.

1.173 **Subscription Agent** means any entity reasonably acceptable to the Debtors and the Investors that is selected to act as the Debtors' agent in connection with the Rights Offering and the New Unsecured Notes Election.

1.174 **Subscription Commencement Date** means the date on which (i) Rights Certificates are first mailed to Rights Holders, and (ii) Election Forms are first mailed to the holders of Class B – G Mortgage Certificates.

1.175 **Subscription Price** means the price per NewCo Common Interest to be determined by dividing two-hundred twenty-five million dollars (\$225,000,000) by the aggregate number of NewCo Common Interests to be issued in connection with the Rights Offering (including the Unsubscribed Rights).

1.176 **Successor Trustee** means U.S. Bank National Association, as successor in interest to Wells Fargo Bank, N.A., as Successor Trustee in Trust for holders of Wachovia Bank Commercial Mortgage Trust Commercial Mortgage Pass-Through Certificates, Series 2007-ESH.

1.177 **Swap Agreements** means, collectively, (i) the Merrill Swap Agreement, and (ii) the Wachovia Swap Agreement.

1.178 **Tier 1 Debtors** means the Debtors set forth on Exhibit C hereof.

1.179 **Tier 2 Debtors** means the Debtors set forth on Exhibit D hereof.

1.180 **Tranche A** means Tranche A of the New Mortgage Loan, in the principal amount of \$550,382,072, subject to adjustment based on the application of adequate protection payments to the principal amount of the New Mortgage Notes.

1.181 **Tranche B** means Tranche B of the New Mortgage Loan, in the principal amount of \$400,945,750, subject to adjustment based on the application of adequate protection payments to the principal amount of the New Mortgage Notes.

1.182 **Tranche C** means Tranche C of the New Mortgage Loan, in the principal amount of \$801,908,167, subject to adjustment based on the application of adequate protection payments to the principal amount of the New Mortgage Notes.

1.183 **Tranche D** means Tranche D of the New Mortgage Loan, in the principal amount of \$794,061,234, subject to adjustment based on the application of adequate protection payments to the principal amount of the New Mortgage Notes.

1.184 **Treasury Regulations** means regulations (including temporary and proposed) promulgated under the Internal Revenue Code of 1986, as amended from time to time.

1.185 **Trustee** means Wells Fargo Bank, N.A., as Trustee in Trust for holders of certificates under the Mortgage Facility.

1.186 **Unimpaired** means, with respect to a Class of Claims, a Claim that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

1.187 **Unliquidated Claim** means any Claim, the amount of liability for which

has not been fixed, whether pursuant to agreement, applicable law, or otherwise, as of the date on which such Claim is sought to be estimated.

1.188 **Unsubscribed Rights** means those NewCo Common Interests offered in connection with the Rights Offering that are not validly subscribed for pursuant to the Rights Offering prior to the Expiration Date or for which payment has not been received by the Subscription Agent by the Rights Offering Payment Date.

1.189 **Wachovia Swap Agreement** means the Master Agreement, dated August 28, 2007, by and among Wachovia Bank, National Association, and Wachovia Bank Commercial Mortgage Trust, Commercial Mortgage Pass Through Certificates, Series 2007-ESH Trust, and all Schedules thereto, including the Elections and Variables to the 1994 ISDA Credit Support Annex.

B. Other Terms. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, the feminine, and the neuter. The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. An initially capitalized term used herein that is not defined herein shall have the meaning ascribed to such term, if any, in the Bankruptcy Code, unless the context shall otherwise require.

C. Exhibits. All exhibits to the Plan are annexed hereto. All Plan Documents to be included in exhibits to the Plan Supplement shall be contained in a separate Plan Supplement Exhibit Volume, which shall be filed with the Clerk of the Bankruptcy Court not later than the date that is ten (10) days prior to the last date on which votes to accept or reject the Plan are accepted. Such Plan Supplement Exhibit Volume may be inspected in the office of the Clerk of the Bankruptcy Court during normal hours of operation of the Bankruptcy Court. Such Plan Supplement Exhibit Volume shall also be available for download from the following website: <http://www.kccllc.net/extendedstay>. Holders of Claims may also obtain a copy of such Plan Supplement Exhibit Volume, once filed, from the Debtors by a written request sent to the following address:

c/o HVM L.L.C.
100 Dunbar Street,
Spartanburg, South Carolina 29306
Attn: Kevin McDougall, Esq.

ARTICLE II

PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

2.1 **Payment of Allowed Administrative Expense Claims.** The Allowed Amount of each Administrative Expense Claim that is Allowed as of the Effective Date shall be paid in full, in Cash, on the Effective Date; *provided, however,* that Administrative Expense Claims of the type specified in Section 1.6(c)(i) hereof shall be assumed and paid by NewCo in accordance with the terms and conditions of the particular transactions and any agreements relating thereto. Each holder of an Administrative Expense Claim of the type specified in Section 1.6(c)(ii) or Section 1.6(c)(iii) hereof shall be paid the Allowed Amount of such Administrative

Expense Claim in full, in Cash, as soon as practicable after such Administrative Expense Claim is Allowed.

2.2 **Compensation and Reimbursement Claims.** The Bankruptcy Court shall fix in the Confirmation Order a date for the filing of, and a date to hear and determine, all applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code or applications for allowance of Administrative Expense Claims arising under section 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 503(b)(6) of the Bankruptcy Code. The Allowed Amount of all Administrative Expense Claims arising under section 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 503(b)(6) of the Bankruptcy Code shall be paid in full, in Cash, (a) upon the later of (i) the Effective Date and (ii) the date upon which any such Administrative Expense Claim becomes Allowed or (b) at such later date or upon such other terms as may be mutually agreed upon between each such Administrative Expense Creditor and NewCo.

2.3 **Priority Tax Claims.** Each holder of an Allowed Priority Tax Claim shall 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 NewCo.

ARTICLE III

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

3.1 **Summary.** The following table designates the Classes of Claims against and Equity Interests in the Debtors and specifies which of those Classes are (i) impaired or unimpaired by the Plan and (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code.

CLASS	DESIGNATION	STATUS	ENTITLED TO VOTE?
Class 1	Priority Claims	Unimpaired	No
Class 2	Mortgage Facility Claim	Impaired	Yes
Class 3	ESA UD Mortgage Claim	Impaired	Yes
Class 4	Mortgage Facility Deficiency Claim	Impaired	Yes
Class 5	General Unsecured Claims	Impaired	Yes
Class 6	Existing Equity	Impaired	No
Class 7	ESA MD Properties Trust Certificate	Unimpaired	No
Class 8	ESA MD Borrower Interests	Unimpaired	No
Class 9	ESA P Portfolio MD Trust Certificate	Unimpaired	No
Class 10	ESA P Portfolio MD Borrower Interests	Unimpaired	No
Class 11	ESA Canada Properties Interests	Unimpaired	No

CLASS	DESIGNATION	STATUS	ENTITLED TO VOTE?
Class 12	ESA Canada Properties Borrower Interests	Unimpaired	No
Class 13	ESH/TN Properties L.L.C. Membership Interests	Unimpaired	No
Class 14	ESH/ESA General Partnership Interests	Unimpaired	No
Class 15	Other Existing Equity Interests	Impaired	No

ARTICLE IV

TREATMENT OF CLAIMS AND EQUITY INTERESTS

4.1 Class 1. Priority Claims.

(a) *Classification:* Class 1 consists of the Allowed Priority Claims.

(b) *Treatment:* Each holder of an Allowed Priority Claim shall be paid the Allowed Amount of its Allowed Priority Claim, in full, in Cash, on the later of the Effective Date and as soon as practicable after the date such Priority Claim becomes Allowed.

(c) *Voting:* Class 1 is not impaired. The holders of the Claims in Class 1 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.2 Class 2. Mortgage Facility Claim.

(a) *Classification:* Class 2 consists of the Allowed Mortgage Facility Claim.

(b) *Treatment:*

(i) Subject to Section 6.2(a), in the event that Class 2 accepts the Plan, the holder of the Allowed Mortgage Facility Claim shall receive (A) 100% of the Rights, and (B) on the Initial Distribution Date, 100% of the New Class A1 Mortgage Notes, 100% of the New Class A2 Mortgage Notes, 100% of the New Class A3 Mortgage Notes, 100% of the New Class A4 Mortgage Notes, NewCo Common Interests representing 55.000% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date, as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date, and 100% of the New Unsecured Notes.

(ii) In the event that Class 2 rejects the Plan, the holder of the Allowed Mortgage Facility Claim shall receive, on the Initial Distribution Date, the New Alternate Notes in an aggregate principal amount not to exceed \$3,200,000,000, which represents the value of the collateral securing the Allowed Mortgage Facility Claim, and which New Alternate Notes shall bear interest at the rate of 5.34% per annum or such lower rate as shall be fixed by the

Bankruptcy Court, and shall have a final maturity date that is nine (9) years after the Initial Distribution Date. The Debtors, with the consent of the Investors, reserve the right to seek confirmation of a plan under section 1129(b) of the Bankruptcy Code, pursuant to which the holder of the Allowed Mortgage Facility Claim will receive New Alternate Notes in an aggregate principal amount less than \$3,200,000,000, with the difference between such the amount of such New Alternate Note and \$3,200,000,000 being provided in New Equity Securities, to the extent permitted by law. In either such circumstance, the Rights shall be extinguished.

(c) *New Unsecured Notes Election for Class B – G Mortgage Certificates.*

Provided Class 2 is entitled to the treatment set forth in Section 4.2(b)(i) hereof, at the election of any holder of (i) a Class B - F Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of aggregate principal amount of New Unsecured Notes for each \$1.00 of face amount of the Class B – F Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests, and (ii) a Class G Mortgage Certificate, such holder shall receive, in lieu of all or a portion of the NewCo Common Interests that such holder is entitled to receive, \$1.00 of New Unsecured Notes multiplied by the Class G Proportion, for each \$1.00 of face amount of the Class G Mortgage Certificates that such holder holds and for which such holder elects to receive New Unsecured Notes in lieu of NewCo Common Interests; *provided*, that, in the case of both (i) and (ii), the aggregate principal amount of all New Unsecured Notes received by all holders of Class B - G Mortgage Certificates in lieu of NewCo Common Interests does not exceed, in the aggregate, the New Unsecured Notes Cap. In the event the holders of Class B - G Mortgage Certificates collectively elect to receive an aggregate principal amount of New Unsecured Notes in excess of the New Unsecured Notes Cap, the New Unsecured Notes shall be allocated to the holders of Class B – G Mortgage Certificates in accordance with the respective priority of the Class B - G Mortgage Certificates until the New Unsecured Notes issued equals the New Unsecured Notes Cap. Each holder of a Class B - G Mortgage Certificate electing to receive New Unsecured Notes shall receive on the Initial Distribution Date (A) its Pro Rata Share of New Unsecured Notes having an aggregate principal amount equal to the New Unsecured Notes Cap, *provided, however*, that in the case of holders of Class G Mortgage Certificates, the Pro Rata Share shall be calculated as provided in clause (ii) above, and (B) with respect to the Class B – F Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive, and with respect to the Class G Mortgage Certificates, NewCo Common Interests having a reorganized equity value of \$1.00 (without taking into account the impact of the Investment, the Rights Offering, the New Unsecured Notes or the exercise of any New A Warrants or New B Warrants) multiplied by the Class G Proportion for every \$1.00 of aggregate principal amount of New Unsecured Notes that such holder elected to receive but did not receive.

(d) *Interest:* Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed Mortgage Facility Claim.

(e) *Voting:* Class 2 is impaired. The holder of the Claim in Class 2 is entitled to vote to accept or reject the Plan.

4.3 **Class 3. ESA UD Mortgage Claim.**

(a) *Classification:* Class 3 consists of the Allowed ESA UD Mortgage Claim.

(b) *Treatment:* The holder of the Allowed ESA UD Mortgage Claim shall receive on the Distribution Date the New ESA UD Mortgage Note in full settlement, satisfaction, release and discharge of the Allowed ESA UD Mortgage Claim.

(c) *Interest:* Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed ESA UD Mortgage Claim.

(d) *Voting:* Class 3 is impaired. The holder of the Claim in Class 3 is entitled to vote to accept or reject the Plan.

4.4 **Class 4. Mortgage Facility Deficiency Claim.**

(a) *Classification:* Class 4 consists of the Mortgage Facility Deficiency Claim.

(b) *Treatment:* No distribution shall be made under the Plan in respect of the Mortgage Facility Deficiency Claim; *provided, however*, that in order to facilitate a consensual Plan, if Class 4 votes to accept the Plan, Class 4 shall receive its Pro Rata Share of the New A Warrants. For purposes of calculating Pro Rata Share hereunder, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.

(c) *Interest:* Interest shall neither accrue nor be payable from and after the Commencement Date with respect to the Allowed Mortgage Facility Deficiency Claim.

(d) *Voting:* Class 4 is impaired. The holder of the Claim in Class 4 is entitled to vote to accept or reject the Plan.

4.5 **Class 5. General Unsecured Claims.**

(a) *Classification:* Class 5 consists of the General Unsecured Claims.

(b) *Treatment:* No distribution shall be made under the Plan in respect of the General Unsecured Claims; *provided, however*, that in order to facilitate a consensual Plan, if Class 5 accepts the Plan, each holder of a General Unsecured Claim shall receive, at its election, either (i) its Pro Rata Share of New A Warrants, or (ii) if its claim is \$100,000 or less, or it elects to reduce its claim to \$100,000, its Pro Rata Share of the Cash Distribution; *provided, however*, that if Class 4 accepts the Plan, all holders of General Unsecured Claims shall be deemed to have elected the Cash option. For purposes of calculating Pro Rata Share hereunder, the Allowed Claims of the holders of the Mortgage Facility Deficiency Claim and the General Unsecured Claims shall be aggregated.

(c) *Interest:* Interest shall neither accrue nor be payable from and after the Commencement Date with respect to Allowed General Unsecured Claims.

(d) *Voting:* Class 5 is impaired. The holders of the Claims in Class 5 are

entitled to vote to accept or reject the Plan.

4.6 ***Class 6. Existing Equity.***

(a) *Classification:* Class 6 consists of the Existing Equity.

(b) *Treatment:* No distribution shall be made under the Plan from the Estates in respect of the Existing Equity. On the Effective Date, the certificates that previously evidenced ownership of Existing Equity shall be cancelled and shall be null and void, the holder(s) thereof shall no longer have any rights in respect of the Existing Equity, and such certificates shall not evidence any rights under the Plan.

(c) *Voting:* Class 6 is impaired. The holders of Existing Equity in Class 6 are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.7 ***Class 7. ESA MD Properties Trust Certificate.***

(a) *Classification:* Class 7 consists of the ESA MD Properties Trust Certificate.

(b) *Treatment:* The holder of the ESA MD Properties Trust Certificate shall retain the ESA MD Properties Trust Certificate.

(c) *Voting:* Class 7 is not impaired. The holder of the Equity Interests in Class 7 is deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.8 ***Class 8. ESA MD Borrower Interests.***

(a) *Classification:* Class 8 consists of the ESA MD Borrower Interests.

(b) *Treatment:* Each holder of ESA MD Borrower Interests shall retain its ESA MD Borrower Interests.

(c) *Voting:* Class 8 is not impaired. The holders of the Equity Interests in Class 8 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.9 ***Class 9. ESA P Portfolio MD Trust Certificate***

(a) *Classification:* Class 9 consists of the ESA P MD Portfolio Trust Certificate.

(b) *Treatment:* The holder of the ESA P MD Portfolio Trust Certificate shall retain the ESA P Portfolio Trust Certificate.

(c) *Voting:* Class 9 is not impaired. The holder of the Equity Interests in Class 9 is deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.10 ***Class 10. ESA P Portfolio MD Borrower Interests***

(a) *Classification:* Class 10 consists of the ESA P Portfolio MD Borrower Interests.

(b) *Treatment:* Each holder of ESA P Portfolio MD Borrower Interests shall retain its ESA P Portfolio MD Borrower Interests.

(c) *Voting:* Class 10 is not impaired. The holders of the Equity Interests in Class 10 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.11 ***Class 11. ESA Canada Properties Interests.***

(a) *Classification:* Class 11 consists of the ESA Canada Properties Interests.

(b) *Treatment:* Each holder of ESA Canada Properties Interests shall retain its ESA Canada Properties Interests.

(c) *Voting:* Class 11 is not impaired. The holders of the Equity Interests in Class 11 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.12 ***Class 12. ESA Canada Properties Borrower Interests.***

(a) *Classification:* Class 12 consists of the ESA Canada Properties Borrower Interests.

(b) *Treatment:* Each holder of ESA Canada Properties Borrower Interests shall retain its ESA Canada Properties Borrower Interests.

(c) *Voting:* Class 12 is not impaired. The holders of the Equity Interests in Class 12 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.13 ***Class 13. ESH/TN Properties Membership Interest.***

(a) *Classification:* Class 13 consists of the ESH/TN Properties Membership Interest.

(b) *Treatment:* The holder of the ESH/TN Properties Membership Interest shall retain its ESH/TN Properties Membership Interest.

(c) *Voting:* Class 13 is not impaired. The holder of the Equity Interest in Class 13 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

4.14 ***Class 14. ESH/ESA General Partnership Interests.***

(a) *Classification:* Class 14 consists of the ESH/ESA General Partnership Interests.

(b) *Treatment:* Each holder of ESH/ESA General Partnership Interests shall retain its ESH/ESA General Partnership Interests.

(c) *Voting:* Class 14 is not impaired. The holders of the Equity Interests in Class 14 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

4.15 ***Class 15. Other Existing Equity Interests.***

(a) *Classification:* Class 15 consists of the Other Existing Equity Interests.

(b) *Treatment:* No distribution shall be made under the Plan from the Estates in respect of the Other Existing Equity Interests. On the Effective Date, the certificates that previously evidenced ownership of the Other Existing Equity Interests shall be cancelled and shall be null and void, the holders thereof shall no longer have any rights in respect of the Other Existing Equity Interests, and such certificates shall not evidence any rights under the Plan.

(c) *Voting:* Class 15 is impaired. The holders of the Other Existing Equity Interests in Class 15 are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

ARTICLE V

ACCEPTANCE, REJECTION, AND REVOCATION OR WITHDRAWAL OF THE PLAN

5.1 ***Impaired Classes to Vote.*** Each holder of a Claim in an impaired Class, other than those Classes that are deemed to reject the Plan, as of the Record Date shall be entitled to vote to accept or reject the Plan, in its sole and absolute discretion, subject to applicable law.

5.2 ***Acceptance by Class of Claims.*** An Impaired class of Claims shall be deemed to accept the Plan if (a) holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of more than one half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

5.3 ***Nonconsensual Confirmation.*** In the event that any Class of Claims entitled to vote shall not accept the Plan by the requisite statutory majority required by section 1129(a) of the Bankruptcy Code, the Debtors reserve the right to (a) request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code with respect to such non-accepting Class, in which case the Plan shall constitute a motion for such relief, or (b) amend the Plan in accordance with Section 13.1 hereof.

5.4 ***Revocation or Withdrawal.***

(a) *Right to Revoke.* The Plan may be revoked or withdrawn prior to the Confirmation Date by the Debtors, in their sole and absolute discretion.

(b) *Effect of Withdrawal or Revocation.* If the Plan is revoked or withdrawn prior to the Confirmation Date, then the Plan shall be deemed null and void. In such event,

nothing contained herein shall be deemed to constitute a waiver or release of any claims or defenses or any admission or statement against interest by any Debtor, the Creditors' Committee, the Investors or any other Person or to prejudice in any manner the rights of the Debtors, the Creditors' Committee, the Investors or any Person in any further proceedings involving any Debtor.

5.5 ***Amendment of Plan Documents.*** From and after the Effective Date, the authority to amend, modify, or supplement the Plan Supplement, the Exhibits to the Plan Supplement and the Exhibits to the Plan and any documents attached to such Plan Supplement, Exhibits to the Plan Supplement and Exhibits to the Plan shall be as provided in such Plan Supplement, Exhibits to the Plan Supplement and Exhibits to the Plan and their respective attachments.

ARTICLE VI

IMPLEMENTATION OF THE PLAN

6.1 ***Substantive Consolidation.*** The Plan is 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. On and after the Effective Date, the Debtors and their Estates shall be deemed merged and (i) all assets and liabilities of the Debtors shall be treated for purposes of the Plan as though they were merged, (ii) all guarantees of the Debtors of payment, performance or collection of obligations of any other of the Debtors shall be eliminated and cancelled, (iii) all joint obligations of two or more of the Debtors and all multiple Claims against such entities on account of such joint obligations, shall be considered a single Claim against the Debtors, and (iv) any Claim filed against any of the Debtors shall be deemed filed against the consolidated Debtors and shall be one Claim against and a single obligation of the consolidated Debtors.

6.2 ***Distributions to Certificate Holders.***

(a) If Class 2 votes to accept the Plan, and Class 2 is, therefore, entitled to the treatment set forth in Section 4.2(b)(i) hereof, the New Securities shall be distributed by the Trustee as follows, *provided, however*, that distributions to InvestorCo shall be made in accordance with Section 6.2(a)(xii) hereof:

(i) ***Holders of Class A1 Mortgage Certificates.*** Each holder of a Class A1 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A1 Mortgage Notes.

(ii) ***Holders of Class A2 Mortgage Certificates.*** Each holder of a Class A2 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A2 Mortgage Notes.

(iii) ***Holders of Class A3 Mortgage Certificates.*** Each holder of a Class A3 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A3 Mortgage Notes.

(iv) ***Holders of Class A4 Mortgage Certificates.*** Each holder of a Class A4 Mortgage Certificate shall receive on the Initial Distribution Date its Pro Rata Share of the New Class A4 Mortgage Notes.

(v) *Holders of Class B- F Mortgage Certificates.* Each holder of a Class B - F Mortgage Certificate, shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to the Class of Mortgage Certificates of which such holder is a member pursuant to the Plan, subject to adjustment for the New Unsecured Note Election), and (B) on the Initial Distribution Date, other than NewCo as holder of the Investor Certificates, its Pro Rata Share (calculated as such holder's Pro Rata Share of the aggregate amount of all Class B - F Mortgage Certificates) of 408,097 NewCo Common Interests (with such number of NewCo Common Interests representing approximately 34.073% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).

(vi) *Holders of Class G Mortgage Certificates.* Each holder of a Class G Mortgage Certificate shall receive (A) its Pro Rata Share of the New B - G Rights (calculated as such holder's Pro Rata Share of the percentage of NewCo Common Interests that is to be distributed to holders of Class G Mortgage Certificates, subject to adjustment for the New Unsecured Note Election)), and (B) on the Initial Distribution Date, its Pro Rata Share of 62,385 NewCo Common Interests (with such number of NewCo Common Interests representing approximately 5.209% of the issued and outstanding NewCo Common Interests after giving effect to subsequent transactions taking place on the Effective Date as adjusted for the issuance of any New Unsecured Notes pursuant to the New Unsecured Notes Election, and assuming that none of the New A Warrants or New B Warrants are exercised on the Effective Date).

(vii) *Holders of Class H Mortgage Certificates.* Each holder of a Class H Mortgage Certificate shall receive its Pro Rata Share of 32.4% of the New H - M Rights.

(viii) *Holders of Class J Mortgage Certificates.* Each holder of a Class J Mortgage Certificate shall receive its Pro Rata Share of 20.6% of the New H - M Rights.

(ix) *Holders of Class K Mortgage Certificates.* Each holder of a Class K Mortgage Certificate shall receive its Pro Rata Share of 29.4% of the New H - M Rights.

(x) *Holders of Class L Mortgage Certificates.* Each holder of a Class L Mortgage Certificate shall receive its Pro Rata Share of 14.7% of the New H - M Rights.

(xi) *Holders of Class M Mortgage Certificates.* Each holder of a Class M Mortgage Certificate shall receive its Pro Rata Share of 2.9% of the New H - M Rights.

(xii) *InvestorCo.* In accordance with Section 4.2(b), on the Initial Distribution Date, the New Securities to be distributed to InvestorCo on account

of its ownership of the Investor Certificates, which shall be determined by reference to Schedule 1.2a of the Investment and Standby Purchase Agreement, but subject to adjustment as provided in Section 1.3 thereof, shall be directly distributed by NewCo to InvestorCo.

(b) If Class 2 votes to reject the Plan, and Class 2 is, therefore, entitled to the treatment set forth in Section 4.2(b)(ii), the New Alternate Notes shall be distributed by the Trustee to the holders of the Class A1 – E Mortgage Certificates (including NewCo as holder of the Investor Certificates) and the holders of the Class F Mortgage Certificates as follows:

(i) *Holders of Class A1 – E Mortgage Certificates.* Each holder of a Class A1 - E Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the New Alternate Notes (calculated as such holder's Pro Rata Share of the aggregate principal amount of the Class A1 – E Mortgage Certificates).

(ii) *Holders of Class F Mortgage Certificates.* Each holder of a Class F Mortgage Certificate shall receive, on the Initial Distribution Date, its Pro Rata Share of the Class F Alternate Note Proportion of the New Alternate Notes.

(c) If Class 4 votes to accept the Plan and, in accordance with Section 4.4(b) hereof, receives its Pro Rata Share of the New A Warrants, the New A Warrants shall be distributed by the holder of the Mortgage Facility Deficiency Claim as follows:

(i) *Holders of Class G Mortgage Certificates.* Each holder of a Class G Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 15.0% of the New A Warrants.

(ii) *Holders of Class H Mortgage Certificates.* Each holder of a Class H Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 27.5% of the New A Warrants.

(iii) *Holders of Class J Mortgage Certificates.* Each holder of a Class J Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 17.5% of the New A Warrants.

(iv) *Holders of Class K Mortgage Certificates.* Each holder of a Class K Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 25.0% of the New A Warrants.

(v) *Holders of Class L Mortgage Certificates.* Each holder of a Class L Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 12.5% of the New A Warrants.

(vi) *Holders of Class M Mortgage Certificates.* Each holder of a Class M Mortgage Certificate shall receive on the Initial Distribution Date, its Pro Rata Share of 2.5% of the New A Warrants.

6.3 *Creation of NewCo.*

(a) *Certificate of Formation.* The NewCo Certificate of Formation shall be filed with the Delaware secretary of state on or before the Effective Date substantially in the form of the NewCo Certificate of Formation and shall, *inter alia*, include a provision prohibiting the issuance of non-voting equity securities in accordance with section 1123(a)(6) of the Bankruptcy Code. Pursuant to the Plan:

(A) Provided that Class 2 accepts the Plan, NewCo Common Interests comprising 38.218% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall be issued to InvestorCo on the Effective Date immediately after the consummation of the issuance described in clause (C) below. In the event that Class 2 rejects the Plan, NewCo Common Interests comprising 100% of the total issued NewCo Common Interests as of the Effective Date (assuming that none of the New A Warrants or New B Warrants have been exercised as of the Effective Date) shall be issued to InvestorCo on the Effective Date immediately after the consummation of the issuance described in clause (C) below;

(B) Provided that Class 2 accepts the Plan, NewCo Common Interests representing 22.500% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall be issued in connection with the Rights Offering on the Effective Date immediately after the consummation of the issuance described in clause (C) below. In the event that Class 2 rejects the Plan, the Rights Offering shall be terminated, canceled or otherwise not effectuated and all Rights and any exercise of any Right shall be canceled and be null and void and no NewCo Common Interests shall be issued in connection with the Rights Offering.

(C) Provided that Class 2 accepts the Plan, NewCo Common Interests representing 39.282% of the total issued NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election) shall be issued to the holders of the Class B – G Mortgage Certificates in accordance with the Plan. In the event that Class 2 rejects the Plan, except for NewCo Common Interests issued to InvestorCo on account of the Investment, no NewCo Common Interests shall be issued to holders of Class B – G Mortgage Certificates;

(D) Additional NewCo Common Interests, in an amount agreed upon by the Debtors and the Investors, shall be reserved for issuance under the NewCo Management Incentive Plan;

(E) Provided that Class 4 accepts the Plan, New A Warrants to acquire NewCo Common Interests shall be allocated to the holders of Class G-M Mortgage Certificates, with such NewCo Common Interests representing 10% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New

Unsecured Notes Election);

(F) Provided that Class 5 accepts the Plan and Class 4 does not accept the Plan, New A Warrants to acquire NewCo Common Interests shall be allocated to holders of Allowed General Unsecured Claims with such NewCo Common Interests representing up to 10% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election, subject to adjustment for the cash election in accordance with Section 4.6(b)); and

(G) As provided in Section 6.14 hereof, in the event BHAC and NewCo enter into a BHAC IP Transfer Agreement, New B Warrants to acquire NewCo Common Interests shall be allocated to BHAC, with such NewCo Common Interests representing 2.5% of the issued and outstanding NewCo Common Interests as of the Effective Date (assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates have made the New Unsecured Notes Election).

(b) *NewCo Operating Agreement.* The NewCo Operating Agreement shall be adopted substantially in the form to be included in the Plan Supplement and shall be deemed to become valid, binding and enforceable in accordance with its terms on the Effective Date. Each holder of NewCo Common Interests shall be bound by the terms of the NewCo Operating Agreement without the need for execution by any party thereto other than NewCo.

(c) *Registration Rights.* Pursuant to the terms of the Registration Rights Agreement, which shall be substantially in the form to be included in the Plan Supplement, the Investors (or InvestorCo) shall be entitled to certain registration rights as set forth therein.

6.4 ***Cancellation of Existing Debt Securities.*** As of the Effective Date, all notes, agreements, certificates and securities evidencing the Mortgage Facility, the Class A1 – A4 Mortgage Certificates, the Class B – M Mortgage Certificates, the ESA UD Mortgage Claim, the General Unsecured Claims, and the rights of the holders thereof thereunder, shall be cancelled and deemed null and void and of no further force and effect, and the holders thereof shall have no rights, and such notes, agreements, certificates and securities shall evidence no rights, except the right to receive the Distributions provided herein.

6.5 ***Management of NewCo.*** On the Effective Date, the Board of Managers shall consist of seven (7) individuals and will be comprised as follows: (a) the chief executive officer of NewCo, (b) four (4) individuals designated by the Investors, and (c) two (2) independent managers, both of whom shall be reasonably acceptable to the Investors. Each of the members of such Board of Managers shall be identified in the Plan Supplement and shall serve in accordance with the NewCo Certificate of Formation and the NewCo Operating Agreement. If Class 2 votes in favor of the Plan, the NewCo Operating Agreement will provide, among other things, that so long as the Investors continue to hold, directly or indirectly, through InvestorCo or otherwise, at least 25.0% of the NewCo Common Interests or 50.0% of the NewCo Common Interests issued directly or indirectly, through InvestorCo or otherwise, to the Investors on the Effective Date, the Investors shall continue to have the right to elect four (4) members of the Board of Managers. The officers of NewCo shall be identified in the Plan Supplement and shall serve in accordance with the NewCo Certificate of Formation, the NewCo Operating Agreement, Section 11.5 hereof and the requirements of applicable nonbankruptcy law.

6.6 **Corporate Reorganization Actions.** On or as soon as practicable after the Effective Date, the Debtors and/or NewCo, as applicable, shall take such actions as may be or become necessary to effectuate the following, all of which shall be authorized and approved in all respects, in each case without further action being required under applicable law, regulation, order, or rule (including, without limitation, any action by the board of directors, stockholders, partners or members of any Debtor or the Board of Managers or members of NewCo):

(a) the NewCo Certificate of Formation will be filed with the Secretary of State of the State of Delaware effecting the formation of NewCo;

(b) 100% of the New Debtor Equity of the Tier 1 Debtors shall be issued to NewCo; and

(c) the Equity Interests of each of the Tier 2 Debtors, the ESH/ESA General Partnership Interests and the ESH/TN Properties Membership Interests shall remain outstanding and unimpaired.

6.7 **Investment.**

If Class 2 accepts the Plan, on the Effective Date immediately after the consummation of the issuance described in Section 6.3(a)(C) hereof, and subject to the terms of the Investment and Standby Purchase Agreement, InvestorCo shall (i) purchase the NewCo Common Interests from NewCo as set forth in the Investment and Standby Purchase Agreement for Cash in the aggregate amount of two hundred, twenty-five million dollars (\$225,000,000), and (ii) contribute to NewCo the Investor Certificates (together with the payment specified in clause (i) above, which payment shall be increased in the circumstances set forth under the second paragraph of this Section 6.7, the “Investment”). Assuming that (a) none of the New A Warrants or New B Warrants have been exercised as of the Effective Date, and (b) none of the holders of any of the Class B - G Mortgage Certificates has made the Unsecured Notes Election, the NewCo Common Interests that InvestorCo shall receive on the Effective Date as a result of the Investment will comprise approximately 38.218% of the total issued and outstanding NewCo Common Interests as of the Effective Date, with such amount of NewCo Common Interests to be increased by the amount of NewCo Common Interests that would have been provided to those holders of Class B – G Mortgage Certificates who made the New Unsecured Notes Election as if such holders had instead not made the New Unsecured Notes Election; *provided* that InvestorCo may elect to deliver on the Effective Date less than or more than the amount of Certificates beneficially owned by the Investors as reflected on Schedule 1.2a to the Investment and Standby Purchase Agreement, in which case (i) the amount of NewCo Common Interests purchased by InvestorCo will be adjusted by an amount commensurate with the amount of NewCo Common Interests to be issued in respect of the Certificates delivered on the Effective Date and (ii) the amount of NewCo Common Interest to be distributed in accordance with Section 4.2(b)(i) will be adjusted to reflect such change in the amount of NewCo Common Interests being purchased by and distributed directly to InvestorCo in exchange for the Investor Certificates.

If Class 2 does not accept the Plan, on the Effective Date immediately after the consummation of the issuance described in Section 6.3(a)(C) hereof, and subject to the terms of the Investment and Standby Purchase Agreement, InvestorCo shall (i) purchase NewCo Common Interests from NewCo for Cash in the aggregate amount of three hundred, twenty million dollars (\$320,000,000), and (ii) contribute to NewCo the Investor Certificates held as of the Effective Date. The NewCo Common Interests that InvestorCo shall receive on the Effective Date as a

result of the Investment will comprise 100% of the total issued and outstanding NewCo Common Interests as of the Effective Date.

If the Investors determine in their sole and absolute discretion that NewCo shall have an alternate corporate or organizational structure, form or identity, the structure of the Investment contemplated in this Section 6.7 shall be changed to the extent necessary to effectuate any such alternate structure, form or identity.

6.8 ***Rights Offering.***

(a) *The Rights.* Each Rights Holder, including the Investors or InvestorCo (to the extent that the Investors have contributed the Investor Certificates to InvestorCo), shall have the right to purchase one NewCo Common Interest for each Right that the Rights Holder holds, at a purchase price that is equal to the Subscription Price. Rights Holders have the right, but not the obligation, to participate in the Rights Offering as provided herein. The number of NewCo Common Interests distributed to the Rights Holders will be rounded down to the nearest whole number. No fractional NewCo Common Interests will be issued in respect of fractional Rights and holders of fractional Rights will not be entitled to receive any Cash in lieu thereof.

(b) *Subscription Period.* The Rights Offering shall commence on the Subscription Commencement Date and shall expire on the Expiration Date. Each Rights Holder intending to participate in the Rights Offering must affirmatively elect to exercise its Rights, in whole or in part, on or prior to the Expiration Date. On the Effective Date, all Unsubscribed Rights shall be acquired by the Investors through InvestorCo in accordance with and subject to the terms and conditions contained in the Investment and Standby Purchase Agreement and this Plan, and any exercise of such Rights after the Expiration Date (other than the purchase of NewCo Common Interests by the Investors through InvestorCo pursuant to the Investment and Standby Purchase Agreement) shall be null and void and there shall be no obligation to honor any such purported exercise received by the Subscription Agent after the Expiration Date, regardless of when the documents relating to such exercise were sent.

(c) *Subscription Price.* Each Rights Offering Participant choosing to exercise its Rights, in whole or in part, shall pay the aggregate Subscription Price for the NewCo Common Interests that such Rights Offering Participant is to acquire pursuant to the exercise of the Rights not later than the Rights Offering Payment Date. If the Effective Date does not occur, the Subscription Price that each Rights Offering Participant has paid shall be refunded to such Rights Offering Participant without payment of any interest.

(d) *Exercise of Rights.* In order to exercise the Rights, each Rights Holder must: (i) return a duly completed and executed Rights Certificate to the Subscription Agent on or before the Expiration Date in which the Rights Holder represents that it is (A) a “qualified institutional buyer” as such term is defined in Rule 144A under the Securities Act, (B) an “accredited investor” as such term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, or (C) a non-US person purchasing under Regulation S under the Securities Act, and (ii) pay to the Subscription Agent (on behalf of the Debtors) on or before the Rights Offering Payment Date such Rights Holder’s aggregate Subscription Price in accordance with the wire instructions set forth on the Rights Certificate or by bank or cashier’s check delivered to the Subscription Agent as specified in the Rights Certificate. If the Subscription Agent for any reason does not receive from a given Rights Holder (i) a duly completed and executed Rights Certificate on or prior to the Expiration Date, and (ii) immediately available funds in an amount equal to such holder’s aggregate Subscription Price on or prior to the Rights

Offering Payment Date, such Rights Holder shall be deemed to have relinquished and waived its right to participate in the Rights Offering and any NewCo Common Interests that such Rights Holder could have purchased upon its valid exercise of the Rights shall be deemed to be Unsubscribed Rights. The payments made in accordance with the Rights Offering shall be deposited and held by the Subscription Agent in the Escrow Account, which account will be maintained for the purpose of holding the money for administration of the Rights Offering until the Effective Date. The Subscription Agent shall not use such funds for any other purpose or release such funds to the Debtors prior to such date and shall not encumber or permit such funds to be encumbered with any lien or similar encumbrance.

Each Rights Offering Participant may exercise all or any portion of such holder's Rights pursuant to the instructions set forth in the Rights Certificate, but the exercise of any Rights shall be irrevocable and shall obligate the exercising Rights Offering Participant to purchase the applicable NewCo Common Interests and to pay the aggregate Subscription Price for such NewCo Common Interests on or prior to the Rights Offering Payment Date. In order to facilitate the exercise of the Rights, on the Subscription Commencement Date, a Rights Certificate will be mailed to each Rights Holder together with appropriate instructions for the proper completion, due execution and timely delivery of the Rights Certificate. Each Rights Offering Participant exercising its Rights shall agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.

(e) *Rights Offering Procedures.* Notwithstanding anything contained herein to the contrary, the Debtors and the Investors may mutually agree, without the consent of any Rights Holder, to modify the procedures relating to the Rights Offering or adopt such additional detailed procedures consistent with the provisions of this Section 6.8 to administer more efficiently the exercise of the Rights.

(f) *Transfer Restriction; Revocation.* The Rights are not transferable by any Rights Holder, other than the Investors and InvestorCo, *provided, however,* that any transfer of Rights by any Investor shall not relieve such Investor of its obligation pursuant to Section 6.8(g) hereof. Any transfer or attempted transfer by a Rights Holder, other than the Investors and InvestorCo, will be null and void, and no purported transferee will be treated as the holder of, or permitted to exercise, any Rights. Once a Rights Offering Participant has properly exercised its Rights, such exercise will not be permitted to be revoked.

(g) *Rights Offering Backstop.* Subject to the terms and conditions in the Investment and Standby Purchase Agreement, each of the Investors has agreed, severally and not jointly, to cause InvestorCo to subscribe for and purchase on the Effective Date, at the aggregate Subscription Price therefor, its allocated percentage of Unsubscribed Rights as set forth in the Investment and Standby Purchase Agreement as of the Effective Date. The Debtors shall notify or cause the Subscription Agent to notify the Investors, on each Friday during the period from the Subscription Commencement Date to the Expiration Date (and any extensions thereof) and on each business day during the five (5) business days prior to the Expiration Date (and any extensions thereof), or more frequently if requested by either of the Investors, of the aggregate number of Rights known by the Debtors or the Subscription Agent to have been validly exercised as of the close of business on the preceding business day or the most recent practicable time before such request, as the case may be. Within one (1) business day after the Expiration Date and in any event no later than four (4) Business Days prior to the Effective Date, the Debtors and the Subscription Agent shall give the Investors by e-mail a certificate by an executive officer of the Debtors in .pdf format setting forth either (i) in the event that there are Unsubscribed Rights, (x) a true and accurate calculation of the number of NewCo Common Interests elected to be

purchased by the Rights Offering Participants pursuant to validly exercised Rights and the aggregate Subscription Price therefor, and (y) a true and accurate calculation of the number of Unsubscribed Rights, and the aggregate Subscription Price attributable to such Unsubscribed Rights (a “Purchase Notice”) or (ii) in the absence of any Unsubscribed Rights, the fact that there are no Unsubscribed Rights and that the Investors’ obligation to cause InvestorCo to purchase any Unsubscribed Rights is terminated (a “Satisfaction Notice”). The Debtors shall provide the Investors with a certification by the Subscription Agent of the Unsubscribed Rights and a written backup to the determination of the Unsubscribed Rights as any Investor may reasonably request. InvestorCo shall pay to the Subscription Agent, by wire transfer in immediately available funds on or prior to the Effective Date, Cash in an amount equal to the aggregate Subscription Price attributable to the amount of Unsubscribed Rights. On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) hereof, InvestorCo will purchase only such number of Unsubscribed Rights as are listed in the Purchase Notice, without prejudice to the rights of the Investors to later seek an upward or downward adjustment if the number of Unsubscribed Rights in such Purchase Notice is inaccurate.

(h) *Distribution of the NewCo Common Interests.* On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) hereof, the Subscription Agent shall (i) distribute the NewCo Common Interests to each Rights Offering Participant that has properly exercised its Rights and paid the aggregate Subscription Price for the NewCo Common Interests that such Rights Offering Participant has agreed to purchase, and (ii) distribute the Unsubscribed Rights, if any, to InvestorCo. All NewCo Common Interests shall be delivered with any and all issue, stamp, transfer, sales and use, or similar taxes or duties payable, if any, in connection with such delivery having been duly paid by NewCo. If the exercise of a Right would result in the issuance of a fractional NewCo Common Interest, then the number of NewCo Common Interests to be issued in respect of such Right will be rounded down to the closest whole NewCo Common Interest. Any unissued fractional NewCo Common Interests underlying a Right, whether caused by the rounding or a Rights Offering Participant’s choice not to exercise its Rights in full, will become Unsubscribed Rights to be acquired by InvestorCo on the Effective Date.

(i) *Validity of Exercise of Rights.* All questions concerning the timeliness, viability, form and eligibility of any exercise of Rights shall be determined by the Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld. Subject to the foregoing, the Subscription Agent’s good faith determinations shall be final and binding. The Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld, may waive any defect or irregularity, or permit a defect or irregularity to be corrected within such times as they may determine, or reject the purported exercise of any Rights, *provided, however*, that without limiting any other circumstances that could give rise to the Investors’ right to withhold consent to any waiver, permission or rejection specified above, it will be deemed reasonable for the Investors to withhold consent to any such waiver, permission or rejection that adversely affects the interests of the Investors. Rights Certificates shall be deemed not to have been received or accepted until all irregularities have been waived or cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld. The Subscription Agent will use commercially reasonable efforts to give notice to any Rights Offering Participants regarding any defect or irregularity in connection with any purported exercise of Rights by such participant and, may permit such defect or irregularity to be cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld; *provided, however*, that neither the Debtors, the Investors nor the

Subscription Agent shall incur any liability for failure to give such notification. Within five (5) days after the Expiration Date, the Subscription Agent shall file with the Bankruptcy Court a report regarding the results of the Rights Offering including a list identifying all those Rights Certificates deemed rejected due to defect or irregularity.

(j) *Cancellation of Rights Offering.* In the event that Class 2 does not accept the Plan and the Rights Offering is terminated, canceled or otherwise not effectuated, all Rights and any exercise of any Right shall be canceled and be null and void and there shall be no obligation to honor any such purported exercise. In such event, (i) the aggregate Subscription Price paid by any Rights Offering Participant shall be refunded to such Rights Offering Participant without payment of interest and (ii) the Investors' commitment to cause InvestorCo to subscribe for and purchase on the Effective Date the Unsubscribed Rights shall terminate and be null and void.

(k) *Alteration of Rights Offering.* If the Investors determine in their sole and absolute discretion that NewCo shall have an alternate corporate or organizational structure, form or identity, the structure of the Rights Offering contemplated in this Section 6.8 shall be changed to the extent necessary to effectuate any such alternate structure, form or identity.

6.9 *New Unsecured Notes Election.*

(a) *The Unsecured Notes Election.* Provided Class 2 is entitled to the treatment set forth in Section 4.2(b)(i) hereof, the holders of Class B – G Mortgage Certificates shall have the right, but not the obligation, to elect to make the New Unsecured Notes Election as further described in Section 4.2(c) hereof.

(b) *Election Period.* The Election Period shall commence on the Subscription Commencement Date and shall expire on the New Unsecured Notes Election Date. The holder of a Class B – G Mortgage Certificate who intends to make the New Unsecured Notes Election must affirmatively make the New Unsecured Notes Election, in whole or in part, on or prior to the New Unsecured Notes Election Date. Any exercise of the New Unsecured Notes Election after the New Unsecured Notes Election Date shall be null and void and there shall be no obligation to honor any such purported exercise received by the Subscription Agent after the New Unsecured Notes Election Date, regardless of when the documents relating to such exercise were sent.

(c) *Exercise of New Unsecured Notes Election.* In order to exercise the New Unsecured Notes Election, each holder of a Class B – G Mortgage Certificate must return a duly completed Election Form to the Subscription Agent on or before the New Unsecured Notes Election Date. If the Subscription Agent for any reason does not receive a given holder's duly completed Election Form on or prior to the New Unsecured Notes Election Date, such holder shall be deemed to have relinquished and waived its right to participate in the New Unsecured Notes Election. The exercise of any New Unsecured Notes Election shall be irrevocable and shall obligate the exercising holder of a Class B – G Mortgage Certificate to receive New Unsecured Notes as reflected in such New Unsecured Notes Election. In order to facilitate the exercise of the New Unsecured Notes Election, on the Subscription Commencement Date, an Election Form will be mailed to each holder of Class B – G Mortgage Certificates together with appropriate instructions for the proper completion, due execution and timely delivery of the Election Form. Each holder of a Class B – G Mortgage Certificate exercising its New Unsecured Note Election shall agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.

(d) *New Unsecured Notes Election Procedures.* Notwithstanding anything contained herein to the contrary, the Debtors and the Investors may mutually agree, without the consent of any holder of a Class B – G Mortgage Certificate, to modify the procedures relating to the New Unsecured Notes Election or adopt such additional detailed procedures consistent with the provisions of Section 4.2(c) and this Section 6.9 to administer more efficiently the exercise of the New Unsecured Notes Election.

(e) *Transfer Restriction.* The New Unsecured Notes Election is not transferable by any holder of a Class B – G Mortgage Certificate. Any transfer or attempted transfer by a holder of a Class B – G Mortgage Certificate will be null and void, and no purported transferee will be treated as the holder of, or permitted to exercise, the New Unsecured Notes Election.

(f) *Distribution of the New Unsecured Notes.* On the Effective Date and after the consummation of the issuance described in Section 6.3(a)(C) hereof, the Subscription Agent shall distribute the New Unsecured Notes to each holder of a Class B – G Mortgage Certificate that has properly exercised its New Unsecured Notes Election in accordance with Section 4.2(c) hereof and this Section 6.9.

(g) *Validity of Exercise of New Unsecured Notes Election.* All questions concerning the timeliness, viability, form and eligibility of any exercise of the New Unsecured Notes Election shall be determined by the Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld. Subject to the foregoing, the Subscription Agent's good faith determinations shall be final and binding. The Subscription Agent as directed by the Debtors with the written consent of the Investors, which consent shall not be unreasonably withheld, may waive any defect or irregularity, or permit a defect or irregularity to be corrected within such times as they may determine, or reject the purported exercise of any New Unsecured Notes Election, *provided, however,* that without limiting any other circumstances that could give rise to the Investors' right to withhold consent to any waiver, permission or rejection specified above, it will be deemed reasonable for Investors to withhold consent to any such waiver, permission or rejection that adversely affects the interests of the Investors. Election Forms shall be deemed not to have been received or accepted until all irregularities have been waived or cured within such time as the Subscription Agent determines as directed by the Debtors with the written consent of the Investors, such consent not to be unreasonably withheld. The Subscription Agent will use commercially reasonable efforts to give notice to any holder of a Class B – G Mortgage Certificate regarding any defect or irregularity in connection with any purported exercise of the New Unsecured Notes Election by such participant and, may permit such defect or irregularity to be cured within such time as the Subscription Agent, with the consent of the Debtors and the Investors, may determine in good faith to be appropriate; *provided, however,* that neither the Debtors, the Investors nor the Subscription Agent shall incur any liability for failure to give such notification. Within five (5) days after the New Unsecured Notes Election Date, the Subscription Agent shall file with the Bankruptcy Court a report regarding the results of the New Unsecured Notes Election including a list identifying all those Election Forms deemed rejected due to defect or irregularity.

6.10 *Effectuating Documents and Further Transactions.* On or before the Effective Date, and without the need for any further order or authority, the Debtors shall file with the Bankruptcy Court or execute, as appropriate, such agreements and other documents that are in form and substance satisfactory to the Investors as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Each of the officers of the Debtors and NewCo is authorized to execute, deliver, file, or record such contracts, instruments, releases,

indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any notes or securities issued pursuant to the Plan.

6.11 ***Allocation of Plan Distributions Between Principal and Interest.*** To the extent that any Allowed General Unsecured Claims entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount of the Claim (as determined for federal income tax purposes) first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

6.12 ***Surrender and Cancellation of Instruments.*** Each holder of an instrument evidencing a Claim shall surrender such instrument to NewCo or, in the case of the holders of any Mortgage Certificates (excluding the Class of B - M Mortgage Certificates held by InvestorCo which shall be surrendered to NewCo), to the Trustee, and NewCo (or the Trustee in the case of the holders of any Class A1- A4 Mortgage Certificates of Class B - M Mortgage Certificates, excluding the Class of B - M Mortgage Certificates held by InvestorCo shall distribute or cause to be distributed to the holder thereof the appropriate Distribution (if any) provided hereunder. At the option of NewCo (in its sole and absolute discretion), no Distribution hereunder shall be made to or on behalf of any holder of such Claim unless and until such instrument is received or the unavailability of such instrument is reasonably established to the satisfaction of NewCo. In accordance with section 1143 of the Bankruptcy Code, any such holder of such a Claim that fails to surrender or cause to be surrendered such instrument or to execute and deliver an affidavit of loss and indemnity reasonably satisfactory to NewCo and, in the event that NewCo requests, fails to furnish a bond in form and substance (including, without limitation, amount) reasonably satisfactory to NewCo shall be deemed to have forfeited all rights, claims, and interests and shall not participate in any Distribution hereunder.

6.13 ***Letters of Credit.*** At or prior to the Effective Date, in the Debtors' discretion, with the consent of the Investors, (i) the Existing Letters of Credit shall be terminated and any cash collateral provided thereunder shall be released to the entity that posted such collateral, and (ii) NewCo shall provide any and all letters of credit and related cash collateral necessary to obtain and maintain in effect all such forms of insurance as are customary to operate a business of the size and type of the Debtors; *provided, however*, that the consent of the Investors shall not be required if the condition set forth in Section 13.1(c) of the Investment and Standby Purchase Agreement with respect to the transfer of the BHAC Intellectual Property has been satisfied.

6.14 ***Intellectual Property.***

(a) ***BHAC IP Transfer Agreement.*** The Debtors have entered into an intellectual property transfer agreement (the "BHAC IP Transfer Agreement") with BHAC, pursuant to which, on the Effective Date, BHAC shall transfer to NewCo the BHAC IP in consideration for the issuance to BHAC of the New B Warrants. The initial exercise price of each New B Warrant shall be \$1,150.00 per NewCo Common Interest, with such exercise price compounding annually at a rate of 20.0%, subject to adjustment for dilution as to be provided in the agreements governing the New B Warrants. In the event NewCo and BHAC do not reach agreement on the terms of the BHAC IP Transfer Agreement prior to the Effective Date, BHAC shall not be entitled to receive the New B Warrants, the BHAC License Agreements shall be assumed by the applicable debtors in accordance with Section 11.1 hereof, and the holder of the Mortgage Facility Claim shall transfer, assign and contribute to NewCo its security interest in and

all rights and remedies with respect to the BHAC IP and NewCo shall exercise all such rights and remedies with respect to the BHAC IP in order to foreclose on the BHAC IP and effectuate the transfer of the BHAC IP to NewCo.

(b) *Homestead IP.* If the Bankruptcy Court grants the Homestead IP Abandonment Motion, on the Effective Date the Homestead IP shall be deemed abandoned to NewCo, and NewCo shall have all right, title and interest to the Homestead IP. If the Bankruptcy Court does not grant the Homestead IP Abandonment Motion, a sale of the Homestead IP will be conducted under section 363(b) of the Bankruptcy Code. In the event that NewCo (or the Investors on behalf of NewCo) is the successful bidder at such sale, then, on the Effective Date, all right, title and interest to the Homestead IP shall be sold and transferred to NewCo in exchange for the NewCo IP Note, and NewCo shall issue the NewCo IP Note to Homestead, which NewCo IP Note shall constitute proceeds of the Homestead IP realized by Homestead and, accordingly, shall be substituted for the Homestead IP under Homestead's pledge of the Homestead IP in connection with the Mortgage Facility, and the aggregate principal amount of the New Mortgage Notes or the New Alternate Mortgage Loan, as applicable, shall be decreased by an amount equal to the principal amount of the NewCo IP Note.

6.15 *Consistent Tax Reporting.*

(a) For federal income tax purposes, (i) the distributions described in Section 4.2 shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Allowed Mortgage Facility Claim, immediately followed by a distribution of such assets to the holders of the Mortgage Certificates in complete liquidation of the holder of the Allowed Mortgage Facility Claim, followed by a contribution of such assets to NewCo by the holders of the Mortgage Certificates receiving solely NewCo Common Interests, a sale of such assets to NewCo by the holders of Mortgage Certificates receiving only New A Warrants and/or New Debt Securities and a part contribution/part sale of such assets to NewCo by the holders of Mortgage Certificates receiving both NewCo Common Interests and other property, and (ii) the distribution described in Section 4.3 shall be treated as a distribution of undivided interests in the assets of NewCo to the holder of the Allowed ESA UD Mortgage Claim followed by a sale of such assets to NewCo for the New ESA UD Mortgage Note. All parties will be required to report for all federal income tax purposes in a manner consistent with the characterization of the distributions described above.

(b) As soon as possible after the Effective Date, and to the extent required by Section 1060 of the Internal Revenue Code, the Board of Managers shall determine the aggregate value of the underlying assets of NewCo as of the Effective Date and the portions of such value that are allocable, respectively, to the New ESA UD Mortgage Note and the various classes of New Equity Securities and New Debt Securities. Such allocation will take into account the relative fair market values of the New Equity Securities, New Debt Securities and the New ESA UD Mortgage Note. The Board of Managers will apprise, in writing, all parties of such aggregate valuation and allocation. The aggregate valuation and allocation shall be used consistently by all parties (including NewCo, the holders of Mortgage Certificates and the holder of the Allowed ESA UD Mortgage Claim) for all federal income tax purposes.

6.16 *Issuance of NewCo Common Interests to Investor Affiliates.*

(a) The Investors, in their sole discretion, may deliver a written schedule to the Debtors within ten (10) days after entry of the Confirmation Order to designate that some or all of the NewCo Common Interests to be issued to InvestorCo under the Plan be issued in the

name of, and delivered to, one or more of their managed funds and/or respective affiliates, so long as such issuance and delivery is in compliance with federal and state securities laws and does not require NewCo to register as an “investment company” or an entity “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

(b) In the event that the Investors make the designation pursuant to Section 6.16(a) above, the funds managed by the Investors and/or the affiliates of the Investors that are so designated shall have the rights, entitlements and benefits that would otherwise inure to InvestorCo in its capacity as a holder of the NewCo Common Interests as provided in the Plan, including those rights, entitlements and benefits of InvestorCo specified in Sections 6.2(a)(xii), 6.3(a)(A), 6.3(b), 6.3(c) and 6.5 above.

ARTICLE VII

TREATMENT OF DISPUTED CLAIMS

7.1 ***Objections to Claims; Prosecution of Disputed Claims.*** NewCo shall object to the allowance of Claims filed with the Bankruptcy Court with respect to which NewCo disputes liability in whole or in part. All objections that are filed and prosecuted by NewCo as provided herein shall be litigated to Final Order by NewCo. Unless otherwise provided herein or ordered by the Bankruptcy Court, all objections by NewCo to Claims shall be served and filed no later than ninety (90) days after the Effective Date.

7.2 ***Distributions on Account of Disputed Claims.*** Notwithstanding Article IV hereof, a Distribution shall only be made by NewCo to the holder of a Disputed Claim when, and to the extent that, such Disputed Claim becomes Allowed. No interest shall be paid on account of Disputed Claims that later become Allowed except to the extent that payment of interest is required under section 506(b) of the Bankruptcy Code. No Distribution shall be made with respect to all or any portion of any Disputed Claim pending the entire resolution thereof in the manner prescribed by Section 7.1 hereof. To the extent that any funds remain reserved for payment of Allowed Claims after the final resolution of all Disputed Claims (and all such Disputed Claim that are subsequently Allowed are fully satisfied in accordance with the terms of the Plan), such funds shall revert to and be fully vested in NewCo.

ARTICLE VIII

DISTRIBUTIONS

8.1 ***Distributions under the Plan.*** Whenever any Distribution to be made under this Plan shall be due on a day other than a Business Day, such Distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on the date due.

8.2 ***Timing of Distributions under the Plan.*** Except for Distributions made on the Initial Distribution Date, any Distribution to be made by any Debtor or, the Disbursing Agent or NewCo pursuant to the Plan shall be deemed to have been timely made if made within ten (10) days after the time therefore specified in the Plan. No interest shall accrue or be paid with respect to any Distribution as a consequence of such Distribution not having been made on the Effective Date.

8.3 ***Distributions with Respect to General Unsecured Claims.***

Distributions with respect to Class 5 shall only be made on each Distribution Date; *provided, however,* that, if a Claim in Class 5 becomes Allowed subsequent to the Initial Distribution Date, NewCo may, in its sole discretion, make a Distribution with respect to such Claim prior to a Distribution Date. For purposes of treatment and Distribution under the Plan, all General Unsecured Claims held by a Creditor shall be aggregated and treated as a single Claim. At the written request of the Disbursing Agent, any Creditor holding multiple General Unsecured Claims shall provide to the Disbursing Agent a single address to which any Distributions shall be sent. At the written request of any Creditor holding multiple General Unsecured Claims made to the Disbursing Agent within thirty (30) days prior to a Distribution Date, such Creditor shall receive an itemized statement of the General Unsecured Claims for which the Distribution is being made.

8.4 ***Distributions with Respect to The Mortgage Facility Claim.*** The amount of the New Debt Securities, New Equity Securities, and/or Rights to which any holder of Certificates is entitled shall be determined based upon such holder's share of principal and accrued interest on the Certificates as of the Confirmation Date. As a result, although the Debtors will still be entitled to use cash collateral consistent with the terms of the Cash Collateral Order, they shall be relieved of the obligation to make Adequate Protection Payments (as defined in the Cash Collateral Order) as of the Confirmation Date.

8.5 ***Calculations Subject to Adjustment.*** The allocation of the New Debt Securities, New Equity Securities, and/or Rights to various classes and subclasses of Claims under the Plan is based on a projected Confirmation Date of June 30, 2010, and is subject to adjustment based on the actual Confirmation Date.

8.6 ***Disbursing Agent.*** Unless otherwise provided herein, all distributions under the Plan shall be made by NewCo as Disbursing Agent or such other entity designated by NewCo with the written consent of the Investors, as a Disbursing Agent. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court, and, in the event that a Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by NewCo.

8.7 ***Record Date.*** As of the close of business on the Record Date, the various transfer and claims registers for each of the classes of Claims as maintained by the Debtors or their respective agents shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims. The Debtors and NewCo shall have no obligation to recognize any transfer of the Claims occurring after the close of business on the Record Date. The Debtors and the Disbursing Agent shall be entitled to recognize and deal hereunder only with those record holders stated on the transfer ledgers as of the close of business on the Record Date, to the extent applicable.

8.8 ***Manner of Payment under the Plan.*** Unless the Person receiving a payment agrees otherwise, any payment in Cash to be made by the Debtors or NewCo shall be made, at the election of the Debtors or NewCo (as the case may be), by check drawn on a domestic bank or by wire transfer from a domestic bank.

8.9 ***Hart-Scott-Rodino Compliance.*** Any NewCo Common Interests to be distributed under the Plan to any Person required to file a Premerger Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended, shall not be

distributed until the notification and waiting periods applicable under such Act to such Person shall have expired or been terminated.

8.10 *Fractional NewCo Common Interests or Other Distributions.*

Notwithstanding anything to the contrary contained herein, no fractional NewCo Common Interests shall be distributed, and no Cash payments of fractions of cents will be made. Fractional dollars shall be rounded down to the nearest whole dollar. Fractional NewCo Common Interests shall be rounded down to the nearest whole unit. No Cash will be paid in lieu of such fractional NewCo Common Interests or dollars.

8.11 *Distribution of Unclaimed Property.* Any Distribution under the Plan that is unclaimed after one hundred eighty (180) days following the date such property is distributed shall be deemed not to have been made and shall be transferred to NewCo, free and clear of any claims or interests of any Entities, including, without express or implied limitation, any claims or interests of any governmental unit under escheat principles. Nothing contained herein shall affect the discharge of the Claim with respect to which such Distribution was made, and the holder of such Claim shall be forever barred from enforcing such Claim against NewCo or the Debtors, or NewCo's or the Debtors' assets, estate, properties, or interests in property.

ARTICLE IX

CONDITIONS PRECEDENT

9.1 *Conditions Precedent to the Effective Date.* The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

(a) the Bankruptcy Court shall have entered a Confirmation Order with respect to the Plan in form and substance approved by the Investors, and such Confirmation Order shall be non-appealable, shall not have been appealed within fourteen (14) calendar days of entry or, if such Confirmation Order is appealed, shall not have been stayed pending appeal, and there shall not have been entered by any court of competent jurisdiction any reversal, modification or vacation, in whole or in part, of such Confirmation Order;

(b) all actions, documents, and agreements necessary to implement the Plan, including, without limitation, all actions, documents, and agreements necessary to implement the corporate reorganization described in Section 6.6, the Investment described in Section 6.7, and the Rights Offering described in Section 6.8, shall have been effected or executed;

(c) the Debtors shall have received all authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents that are determined by the Debtors to be necessary to implement the Plan and that are required by law, regulation, or order;

(d) the NewCo Certificate of Formation shall have been filed with the Secretary of State of the State of Delaware and the NewCo Operating Agreement shall be in place;

(e) the Registration Rights Agreement shall be in full force and effect; and

(f) all of the conditions to closing that are contained in Section 13 of the Investment and Standby Purchase Agreement shall have been satisfied or waived.

The conditions precedent specified above, with the exception of Section 9.1(a), may be waived in whole or in part by the Debtors with the prior consent of the Investors. Subject to the foregoing, any such written waiver of a condition precedent set forth in this Section may be effected at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate the Plan. Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If the Debtors decide that one of the foregoing conditions cannot be satisfied, and the occurrence of such condition is not waived in writing by the Debtors with the prior consent of the Investors, then the Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court, at which time the Plan and the Confirmation Order shall be deemed null and void.

9.2 ***Effect of Failure of Conditions to Effective Date.*** If all the conditions to effectiveness and the occurrence of the Effective Date have not been satisfied or duly waived on or before the first Business Day that is more than 120 days after the Confirmation Date, or by such later date as is proposed by the Debtors (with the consent of the Investors, which shall not be unreasonably withheld), then upon motion by the Debtors (after consultation with the Investors) made before the time that all of the conditions have been satisfied or duly waived, the Confirmation Order will be vacated by the Bankruptcy Court; provided, however, that notwithstanding the filing of such a motion, the Confirmation Order will not be vacated if each of the conditions to consummation is either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to this section 9.2, this Plan will be null and void in all respects, and (i) no distributions under the Plan shall be made, (ii) the Debtors and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred, (iii) the obligations of the Investors under the Investment and Standby Purchase Agreement will terminate, and (iv) all of the Debtors' obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtors or any other entity or to prejudice in any manner the rights of the Debtors or any other entity in any further proceedings involving the Debtors.

ARTICLE X

EFFECT OF CONFIRMATION

10.1 ***Vesting of Assets.*** Upon the Effective Date, pursuant to section 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors shall vest in the Reorganized Debtors and/or NewCo free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided in the Plan. From and after the Effective Date, the Reorganized Debtors and/or NewCo may operate the Debtors' business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code.

10.2 ***Title to Assets; Discharge of Liabilities.*** Except as otherwise provided in the Plan, on the Effective Date, title to all assets and properties and interests in property dealt with by the Plan shall vest in the Reorganized Debtors or NewCo, as provided in the Plan, free and clear of all Claims, Equity Interests, Encumbrances, and other interests, and the Confirmation Order shall be a judicial determination of discharge of the liabilities of the Debtors arising prior to the Effective Date, except as may be otherwise provided in the Plan.

10.3 ***Binding Effect.*** Subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, the Debtors and such holder's respective successors and assigns, whether or not the Claim or Equity Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

10.4 ***Claims Extinguished.*** As of the Effective Date, any and all alter-ego or derivative claims accruing to the Debtors or Debtors in Possession against present or former officers, managers and directors of the Debtors who were officers, managers or directors of the Debtors at any time during the Chapter 11 Cases shall be extinguished whether or not then pending.

10.5 ***Discharge of Claims and Termination of Equity Interests.*** Except as provided herein, the rights afforded in the Plan and the payments and distributions to be made hereunder shall discharge all existing debts and Claims, and shall terminate all Equity Interests, of any kind, nature, or description whatsoever against or in the Debtors or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as provided herein, upon the Effective Date, all existing Claims against the Debtors and Equity Interests in the Debtors shall be, and shall be deemed to be, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtors, NewCo, their respective successors or assignees, or any of their respective assets or properties, any other or further Claim or Equity Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of Claim or proof of Equity Interest, and whether or not the facts or legal bases therefore were known or existed prior to the Effective Date. Upon the Effective Date, all such persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Equity Interest in the Debtors.

10.6 ***Injunction.*** Except as otherwise expressly provided in the Plan, all **Persons who have held, hold or may hold Claims or Equity Interests including Claims and Equity Interests that have been released pursuant to Section 10.10 hereof or are subject to exculpation pursuant to Section 10.9 hereof, and all other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates, are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Equity Interest against the Debtors, the Reorganized Debtors, NewCo or the Released Parties, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors, the Reorganized Debtors, NewCo or the Released Parties, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors, the Reorganized Debtors, NewCo or the Released Parties, or against the property or interests in property of the Debtors, the Reorganized Debtors, NewCo or the Released Parties, or (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors, the Reorganized Debtors, NewCo, the Released Parties or against the property or interests in property of the Debtors, the Reorganized Debtors NewCo or the Released Parties, with respect to any such Claim or Equity Interest. Such injunction shall extend to any successors of the Debtors, the Reorganized Debtors, NewCo and the Released Parties and their respective properties and interest in properties.**

10.7 ***Term of Injunctions or Stays.*** Unless otherwise provided, all injunctions or stays arising under or entered during the Bankruptcy Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, other than injunctions issued pursuant to this Plan (including injunctions under Section 10.6), shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

10.8 ***Injunction Against Interference With Plan of Reorganization.*** Upon the entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

10.9 ***Exculpation.*** Notwithstanding anything herein to the contrary, as of the Effective Date, none of (i) the Debtors, (ii) NewCo, (iii) the Creditors' Committee and any subcommittee thereof, (iv) BHAC (provided that BHAC has entered into the BHAC IP Transfer Agreement as provided in Section 6.14 hereof), (v) the accountants, financial advisors, investment bankers, agents and attorneys for the Debtors, (vi) HVM, (vii) HVM Manager, (viii) the Special Servicer, (ix) the Trustee, (x) HVM Manager Owner, (xi) the Investors, (xii) InvestorCo, and (xiii) any present or former director, manager, officer, member, equity holder (and their respective Affiliates), employee, agent, financial advisor, partner, Affiliate, attorney, other professional advisor or representative (and their respective Affiliates) of the persons or parties described in clauses (i) through (xii) of this Section 10.9 or of their respective Affiliates (but solely in their capacities as such) shall have or incur any liability for any claim, cause of action or other assertion of liability for any act taken or omitted to be taken since the Commencement Date in connection with, or arising out of, the Bankruptcy Cases, the formulation, dissemination, confirmation, consummation, or administration of the Plan, property to be distributed under the Plan, or any other act or omission in connection with the Bankruptcy Cases, the Plan, the Disclosure Statement or any contract, instrument, document or other agreement related thereto, including, without limitation, the Investment and Standby Purchase Agreement; *provided, however*, that the foregoing shall not affect the liability of any person that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence.

10.10 ***Releases.*** Effective as of the Confirmation Date but subject to the occurrence of the Effective Date, and in consideration of (a) the services provided by the present and former directors, managers, officers, employees, Affiliates, agents, financial advisors, attorneys, and representatives of the Debtors to the Debtors who acted in such capacities after the Commencement Date; (b) the services of the Creditors' Committee and their Affiliates; (c) the services provided by HVM; (d) the services provided by HVM Manager; (e) the services of, and assets contributed by, HVM Manager Owner; and (f) the substantial contribution of the Investors, InvestorCo and their Affiliates: (i) the Debtors and NewCo; (ii) each holder of a Claim or Equity Interest that votes to accept the Plan, or is deemed to accept the Plan, or abstains from voting on the Plan; and (iii) to the fullest extent permissible under applicable law (as such law may be extended or integrated after the Effective Date), each holder of a Claim or Equity Interest that does not vote to accept the Plan, shall release unconditionally and forever each Released Party from any and all Claims, demands, causes of action and the like, relating to the Debtors or their Affiliates, advisors, officers, managers, directors and holders of Equity Interests existing as of the Effective Date or thereafter arising from any act, omission, event or other occurrence that occurred on or prior to the Effective Date, including without limitation, the Guaranty Claims, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or

unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, in law, equity or otherwise.

10.11 *Indemnification Obligations*

(a) Notwithstanding anything to the contrary herein, subject to the occurrence of the Effective Date, the obligations of the Debtors as provided in the Debtors' respective certificates of incorporation, bylaws, or other applicable organizational documents, other agreements or law as of the Commencement Date to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of officers who were officers or employees of such Debtors or their respective Affiliates at any time prior to the Effective Date, and who will be officers of the Debtors or NewCo from and after the Effective Date, against any claims, causes of action or obligations whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, shall survive confirmation of the Plan, remain unaffected thereby after the Effective Date and not be discharged, irrespective of whether such indemnification, defense, advancement, reimbursement, exculpation or limitation is owed in connection with an event occurring before or after the Commencement Date.

(b) As of the Effective Date, each Debtor's certificate of incorporation, bylaws or similar organizational documents or other agreement shall provide for the indemnification, defense, reimbursement, exculpation and/or limitation of liability of, and advancement of fees and expenses to, officers who were officers of such Debtor or any of its respective Affiliates at any time prior to the Effective Date and who will continue to be officers or employees of the Debtors or NewCo from and after the Effective Date at least to the same extent as the bylaws of such Debtor in effect on the Commencement Date, against any claims or causes of action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, and none of the Debtors shall amend and/or restate its certificate of incorporation, bylaws or similar organizational document or other agreement before or after the Effective Date to terminate or materially adversely affect any of the Debtors' obligations or such officers' rights under this Section 10.11(b).

(c) Any Claim based on NewCo's or the Debtors' obligations set forth in this Section 10.11 shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

10.12 *Avoidance Actions.* Other than any releases granted herein, by the Confirmation Order and by Final Order of the Bankruptcy Court, as applicable, from and after the Effective Date, NewCo shall have the right to prosecute any avoidance or equitable subordination or recovery actions under sections 105, 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code that belong to the Debtors or Debtors in Possession. The proceeds of any such avoidance actions shall be paid to NewCo; *provided, however*, that after the amount of proceeds paid to NewCo in respect of such avoidance actions exceeds the sum of the Mortgage Facility Claim and the Mortgage Facility Deficiency Claim, less the amount of the New Mortgage Notes or the New Alternate Notes, as applicable, such proceeds shall be deposited into a reserve account and subject to disposition as determined by further order of the Bankruptcy Court.

10.13 *Retention of Causes of Action/Reservation of Rights.*

(a) Except as provided in Section 10.11 hereof, nothing contained in the

Plan or the Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or NewCo may have or which NewCo may choose to assert on behalf of the Debtors' estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, (i) any and all Claims against any person or entity, to the extent such person or entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, NewCo, their officers, directors, managers or representatives and (ii) the turnover of any property of the Debtors' estates.

(b) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense which the Debtors had immediately prior to the Commencement Date, against or with respect to any Claim left unimpaired by the Plan. NewCo shall have, retain, reserve, and be entitled to assert all such claims, causes of action, rights of setoff, and other legal or equitable defenses which the Debtors had immediately prior to the Commencement Date fully as if the Bankruptcy Cases had not been commenced, and all of NewCo's legal and equitable rights respecting any Claim left unimpaired by the Plan may be asserted after the Confirmation Date to the same extent as if the Bankruptcy Cases had not been commenced.

10.14 ***Limitations on Exculpation and Releases of Representatives.*** Nothing in Section 10.10 or Section 10.11 hereof shall (i) be construed to release or exculpate any Person from, or require indemnification of any Person against losses arising from, the fraud, malpractice, criminal conduct, intentional unauthorized misuse of confidential information that causes damages, or ultra vires acts of such Person, or (ii) limit the liability of the professionals of the Debtors, NewCo or the Creditors' Committee to their respective clients pursuant to DR 6-102 of the Code of Professional Responsibility.

ARTICLE XI

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

11.1 ***Assumption of Executory Contracts and Unexpired Leases.*** Any executory contracts or unexpired leases listed in the relevant Exhibit to the Plan Supplement or that have not been rejected by the Debtors with the approval of the Bankruptcy Court and that are not the subject of pending motions to reject on the Confirmation Date, shall be deemed to have been assumed by the applicable Debtor and assigned to NewCo as of the Effective Date, and the Plan shall constitute a motion to assume and assign such executory contracts and unexpired leases. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such assumptions and assignments pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such assumption and assignment is in the best interest of the Debtors, their estates, and all parties in interest in the Chapter 11 Cases. With respect to each such executory contract or unexpired lease assumed and assigned to NewCo, unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, the dollar amount required to cure any defaults of the applicable Debtor existing as of the Confirmation Date shall be conclusively presumed to be the amount set forth in an Exhibit to the Plan Supplement with respect to such executory contract or unexpired lease. Subject to the occurrence of the Effective Date, any such cure amount shall be treated as an Allowed Administrative Expense Claim under the Plan, and, upon payment of such Allowed Administrative Expense Claim, all defaults of the applicable Debtor existing as of the Confirmation Date with respect to such executory contract or unexpired lease shall be deemed cured.

11.2 ***Rejection of Executory Contracts and Unexpired Leases.*** Any executory contracts or unexpired leases of any Debtor that are set forth in the relevant Exhibit to the Plan Supplement shall be deemed to have been rejected by the applicable Debtor, and the Plan shall constitute a motion to reject such executory contracts and unexpired leases, and NewCo shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such rejections pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such rejected executory contract or unexpired lease is burdensome and that the rejection thereof is in the best interest of the Debtors, their estates, and all parties in interest in the Chapter 11 Cases.

11.3 ***Claims Arising from Rejection, Termination or Expiration.*** Claims created by the rejection of executory contracts or unexpired leases (including, without limitation, the rejection provided in Section 11.2 hereof) or the expiration or termination of any executory contract or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on the Debtors no later than thirty (30) days after (i) in the case of an executory contract or unexpired lease that was terminated or expired by its terms prior to the Confirmation Date, the Confirmation Date, (ii) in the case of an executory contract or unexpired lease rejected by the Debtors, the entry of the order of the Bankruptcy Court authorizing such rejection, or (iii) in the case of an executory contract or unexpired lease that is deemed rejected pursuant to section 11.2 hereof, the Confirmation Date. Any rejection claim for which a proof of claim is not filed and served within the time provided herein will be forever barred from assertion and shall not be enforceable against the Debtors, their assets, properties, or interests in property, or NewCo or its estate, assets, properties, or interests in property. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims under the Plan and shall be subject to the provisions of ARTICLE VII of the Plan.

11.4 ***Insurance Policies and Agreements.*** Notwithstanding anything contained in the Plan to the contrary, unless specifically rejected by order of the Bankruptcy Court, all of the Debtors' insurance policies and any agreements, documents or instruments relating thereto, are treated as executory contracts under the Plan of Reorganization and will be assumed by and assigned to NewCo, effective as of the Effective Date. Nothing contained in this Section 11.4 shall constitute or be deemed a waiver of any cause of action that the Debtors may hold against any entity, including, without limitation, the insurer, under any of the Debtors' policies of insurance.

11.5 ***Management Agreements.*** As of the Effective Date, (i) all existing management agreements between any Debtor that is a taxable real estate investment trust subsidiary ("TRS") and HVM, including any related administrative services agreements or G&A Reimbursement Agreements, will be assumed by such Debtors and (ii) all existing management agreements between any Debtor that is not a TRS and HVM will be assumed by such Debtor and assigned to a Debtor that is a TRS (or a newly formed TRS, wholly owned either directly or indirectly by NewCo, that is designated by an existing Debtor that is a TRS); *provided* that such management agreements to be assumed or assumed and assigned (a) shall be modified or amended by modified agreements that shall be included in the Plan Supplement, which terms shall be acceptable to the Investors and HVM and (a) shall be assumed or assumed and assigned as modified or amended.

ARTICLE XII

RETENTION OF JURISDICTION

Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and shall have exclusive jurisdiction over any matter (a) arising under the Bankruptcy Code, (b) arising in or related to the Chapter 11 Cases or the Plan, or (c) to perform any of the following actions:

12.1 To hear and determine any and all motions or applications pending on the Confirmation Date for the assumption and/or assignment or rejection of executory contracts or unexpired leases to which any Debtor is a party or with respect to which any Debtor may be liable, and to hear and determine any and all Claims resulting therefrom or from the expiration or termination prior to the Confirmation Date of any executory contract or unexpired lease;

12.2 To determine any and all adversary proceedings, applications, motions, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by NewCo after the Effective Date, including, without express or implied limitation, any claims to avoid any preferences, fraudulent transfers, or other voidable transfers, or otherwise to recover assets for the benefit of the Debtors' estates;

12.3 To hear and determine any objections to the allowance of Claims arising prior to the Effective Date, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification of any Claim and to allow or disallow any Disputed Claim in whole or in part;

12.4 To ensure that distributions to holders of Allowed Claims are accomplished as provided herein.

12.5 To issue such orders in aid of execution of the Plan to the extent authorized or contemplated by section 1142 of the Bankruptcy Code;

12.6 To consider any modifications of the Plan, remedy any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without express or implied limitation, the Confirmation Order;

12.7 To hear and determine all applications for allowances of compensation and reimbursement of expenses of professionals under sections 330, 331 and 503(b) of the Bankruptcy Code and any other fees and expenses authorized to be paid or reimbursed under the Plan;

12.8 To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with the Plan (and all Exhibits to the Plan Supplement and Exhibits to the Plan) or its interpretation, implementation, enforcement, or consummation;

12.9 To the extent that Bankruptcy Court approval is required, to consider and act on the compromise and settlement of any Claim or cause of action by or against any Debtor's Estate;

12.10 To determine such other matters that may be set forth in the Plan or the Confirmation Order, or that may arise in connection with the Plan, the Disclosure Statement or the Confirmation Order;

12.11 To hear and determine matters concerning state, local, and federal taxes, fines, penalties, or additions to taxes for which the Debtors, as Debtors or Debtors in Possession, may be liable, directly or indirectly, in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any request for expedited determination under section 505(b) of the Bankruptcy Code);

12.12 To hear and determine all questions and disputes arising out of or relating to the Investment Standby & Purchase Agreement, the Rights Offering or the BHAC IP Transfer Agreement; and

12.13 To enter an order or final decree closing the Chapter 11 Cases.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 **Modification of the Plan.** This Plan may be altered, amended or modified by the Debtors, in consultation with the Investors, before or after the Confirmation Date, as provided in section 1127 of the Bankruptcy Code; provided, however, that no such alterations, amendments or modifications that are material shall be made without the consent of the Investors, which shall not be unreasonably withheld. A holder of an Allowed Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder.

13.2 **Payment of Statutory Fees.** All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing on confirmation of the Plan, shall be paid by the Debtors on or before the Effective Date.

13.3 **Rights of Action.** Any rights, claims, or causes of action accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any statute or legal theory, including, without express or implied limitation, any avoidance or recovery actions under sections 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code and (except as provided in ARTICLE XIII hereof) any rights to, claims or causes of action for recovery under any policies of insurance issued to or on behalf of the Debtors shall remain assets of the Debtors' estates and, on the Effective Date, shall be transferred to NewCo. NewCo shall be deemed the appointed representative to, and may, pursue, litigate, and compromise and settle any such rights, claims, or causes of action, as appropriate, in accordance with what is in the best interests of and for the benefit of NewCo.

13.4 **Subordination Agreements.** The distributions under the Plan take into account the relative priority of the Claims in each class in connection with any contractual subordination provisions relating thereto. Accordingly, the Distributions to the various classes of Claims hereunder shall not affect the right of any Person to levy, garnish, attach, or employ any other legal process with respect to such Distributions by reason of any claimed subordination rights or otherwise. On the Effective Date, all Creditors shall be deemed to have waived any and all contractual subordination rights which they may have with respect to such distribution and the Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Creditors

If to the Investors:

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Fax: (212) 351-4035

13.8 **Headings.** The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

13.9 **Severability.** If, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors with the written consent of the Investors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, unless agreed otherwise by the Debtors with the written consent of the Investors, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

13.10 **Governing Law.** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or by Delaware corporate, partnership or limited liability company law, the laws of the State of New York, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents, and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents.

13.11 **Plan Supplement /Exhibits/Schedules.** All exhibits and schedules to the Plan, including the Plan Supplement and the Exhibits to the Plan Supplement, are incorporated into and are a part of the Plan as set forth in full herein.

13.12 **Compliance with Tax Requirements.** In connection with the Plan, the Debtors and the Disbursing Agent will comply with all withholding and reporting requirements imposed by federal, state and local taxing authorities, and all distributions hereunder shall be subject to such withholding and reporting requirements.

13.13 **Exemption from Transfer Taxes.** Pursuant to section 1146(c) of the

Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, shall not be subject to any sales and use, stamp, real estate transfer, mortgage recording, or other similar tax.

13.14 ***Expedited Determination of Postpetition Taxes.*** The Debtors and NewCo are authorized (but not required) to request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all tax returns filed for, or on behalf of, the Debtors for all taxable periods (or portions thereof) from the Commencement Date through (and including) the Effective Date.

13.15 ***Sections 1125 and 1126 of the Bankruptcy Code.*** As of and subject to the occurrence of the Confirmation Date: (i) the Debtors shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (ii) the Debtors, the members of the Creditors' Committee, the Investors, and each of their respective Affiliates, agents, directors, managers, officers, employees, advisors, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation will not be, liable at any time for any violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any securities under the Plan.

13.16 ***Time.*** In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 as amended effective December 1, 2009 shall apply.

Dated: New York, New York
March 5, 2010

Respectfully submitted,

ESA PROPERTIES LLC
ESA 2005 PORTFOLIO LLC
ESA 2005- SAN JOSE LLC
ESA 2005- WALTHAM LLC
ESA ACQUISITION PROPERTIES LLC
ESA ALASKA LLC
ESA CANADA PROPERTIES BORROWER LLC
ESA FL PROPERTIES LLC
ESA MD BORROWER LLC
ESA MN PROPERTIES LLC
ESA P PORTFOLIO LLC
ESA P PORTFOLIO MD BORROWER LLC
ESA P PORTFOLIO PA PROPERTIES LLC
ESA P PORTFOLIO TXNC PROPERTIES LP
ESA PA PROPERTIES LLC
ESA TX PROPERTIES LP
ESH/HOMESTEAD PORTFOLIO LLC
ESH/HV PROPERTIES LLC
ESH/MSTX PROPERTY LP
ESH/TN PROPERTIES LLC
ESH/TX PROPERTIES LP
ESA MD BENEFICIARY LLC
ESA MD PROPERTIES BUSINESS TRUST
ESA P PORTFOLIO MD BENEFICIARY LLC
ESA P PORTFOLIO MD TRUST
ESA CANADA PROPERTIES TRUST
ESA CANADA TRUSTEE INC.
ESA CANADA BENEFICIARY INC.
ESA UD PROPERTIES LLC
ESA 2007 OPERATING LESSEE, INC.
ESA 2005 OPERATING LESSEE INC.
ESA OPERATING LESSEE INC.
ESA P PORTFOLIO OPERATING LESSEE INC.
ESA CANADA OPERATING LESSEE INC.

ESA P PORTFOLIO TXNC GP L.L.C.
ESA TXGP L.L.C.
ESH/MSTX GP L.L.C.
ESH/TXGP L.L.C.
ESH/TN MEMBER INC.

By: /s/ David Lichtenstein
Name: David Lichtenstein
Title: President

WEIL, GOTSHAL & MANGES LLP
Attorneys for Debtors and
Debtors in Possession
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Exhibit A

Debtors

	<u>Entity</u>	<u>State of Organization</u>
1	ESA Properties LLC	Delaware
2	ESA 2005 Portfolio LLC	Delaware
3	ESA 2005- San Jose LLC	Delaware
4	ESA 2005- Waltham LLC	Delaware
5	ESA Acquisition Properties LLC	Delaware
6	ESA Alaska LLC	Delaware
7	ESA Canada Properties Borrower LLC	Delaware
8	ESA FL Properties LLC	Delaware
9	ESA MD Borrower LLC	Delaware
10	ESA MN Properties LLC	Delaware
11	ESA P Portfolio LLC	Delaware
12	ESA P Portfolio MD Borrower LLC	Delaware
13	ESA P Porfolio PA Properties LLC	Delaware
14	ESA P Porfolio TXNC Properties LP	Delaware
15	ESA PA Properties LLC	Delaware
16	ESA TX Properties LP	Delaware
17	ESH/Homestead Portfolio LLC	Delaware
18	ESH/HV Properties LLC	Delaware
19	ESH/MSTX Property LP	Delaware
20	ESH/TN Properties LLC	Delaware
21	ESH/TX Properties LP	Delaware
22	ESA MD Beneficiary LLC	Delaware

	<u>Entity</u>	<u>State of Organization</u>
23	ESA MD Properties Business Trust	Delaware
24	ESA P Portfolio MD Beneficiary LLC	Delaware
25	ESA P Portfolio MD Trust	Delaware
26	ESA Canada Properties Trust	Delaware
27	ESA Canada Trustee Inc.	Delaware
28	ESA Canada Beneficiary Inc.	Delaware
29	ESA UD Properties LLC	Delaware
30	ESA 2007 Operating Lessee, Inc.	Delaware
31	ESA 2005 Operating Lessee Inc.	Delaware
32	ESA Operating Lessee Inc.	Delaware
33	ESA P Portfolio Operating Lessee Inc.	Delaware
34	ESA Canada Operating Lessee Inc.	Ontario, Canada
35	ESA P Portfolio TXNC GP L.L.C.	Delaware
36	ESA TXGP L.L.C.	Delaware
37	ESH/MSTX GP L.L.C.	Delaware
38	ESH/TXGP L.L.C.	Delaware
39	ESH/TN Member Inc.	Delaware

Exhibit B

BHAC License Agreements

Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between BHAC Capital IV, L.L.C. and ESA P Portfolio Operating Lessee Inc. (f/k/a BRE/ESA P Portfolio Operating Lessee Inc.)

Trademark License Agreement, dated as of July 12, 2006, between BHAC Capital IV, L.L.C. and BRE/ESA Canada Operating Lessee Inc.

Trademark License Agreement, dated as of June 13, 2006, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of October 31, 2005, between BHAC Capital IV, L.L.C. and BRE/ESA Canada Operating Lessee Inc.

Trademark License Agreement, dated as of October __, 2005, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of October 25, 2005, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of March 24, 2006, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of June 29, 2006, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of August 11, 2006, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Trademark License Agreement, dated as of April __, 2007, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc. (as assigned by ESA 2005 Operating Lessee, Inc. (f/k/a BRE/ESA 2005 Operating Lessee, Inc.) to ESA 2007 Operating Lessee, Inc. pursuant to the Assignment and Assumption of Trademark License Agreement, dated as of June 11, 2007).

Trademark License Agreement, dated as of April __, 2007, between BHAC Capital IV, L.L.C. and BRE/ESA 2005 Operating Lessee Inc.

Exhibit C

Tier 1 Debtors

ESA Properties LLC
ESA 2005 Portfolio LLC
ESA 2005- San Jose LLC
ESA 2005- Waltham LLC
ESA Acquisition Properties LLC
ESA Alaska LLC
ESA FL Properties LLC
ESA MN Properties LLC
ESA P Portfolio LLC
ESA P Portfolio PA Properties LLC
ESA PA Properties LLC
ESH/Homestead Portfolio LLC
ESH/HV Properties LLC
ESA MD Beneficiary LLC
ESA P Portfolio MD Beneficiary LLC
ESA Canada Trustee Inc.
ESA Canada Beneficiary Inc.
ESA UD Properties LLC
ESA 2007 Operating Lessee, Inc.
ESA 2005 Operating Lessee Inc.
ESA Operating Lessee Inc.
ESA P Portfolio Operating Lessee Inc.
ESA Canada Operating Lessee Inc.
ESA P Portfolio TXNC GP L.L.C.

ESA TXGP L.L.C.

ESH/MSTX GP L.L.C.

ESH/TXGP L.L.C.

ESH/TN Member Inc.

ESA P Portfolio TXNC Properties L.P.

ESA TX Properties L.P.

ESH/TN Properties L.L.C.

ESH/TX Properties L.P.

ESH/MSTX Property L.P.

Exhibit D

Tier 2 Debtors

ESA Canada Properties Borrower LLC

ESA Canada Properties Trust

ESA P Portfolio MD Borrower LLC

ESA P Portfolio MD Trust

ESA MD Borrower LLC

ESA MD Properties Business Trust

Exhibit E

Existing Letters of Credit

Irrevocable Letter of Credit Number S-17551, dated June 11, 2007, issued by Deutsche Bank to Zurich American Insurance Company, as beneficiary, in the amount of \$1,100,000

Irrevocable Letter of Credit Number S-17552, dated June 11, 2007, issued by Deutsche Bank to Zurich American Insurance Company, as beneficiary, in the amount of \$16,375,000

Exhibit F

Homestead Village License Agreements

Second Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between Homestead Village L.L.C. (f/k/a BRE/Homestead Village LLC), as licensor, and ESH/HV Properties LLC (f/k/a BRE/HV Properties LLC)

Second Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between Homestead Village L.L.C. (f/k/a BRE/Homestead Village LLC), as licensor, and ESH/MSTX Property LP (f/k/a BRE/MSTX Property L.P.)

Second Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between Homestead Village L.L.C. (f/k/a BRE/Homestead Village LLC), as licensor, and ESH/Homestead Portfolio LLC (f/k/a BRE/Homestead Portfolio LLC)

Second Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between Homestead Village L.L.C. (f/k/a BRE/Homestead Village LLC), as licensor, and ESH/TN Properties LLC (f/k/a BRE/TN Properties LLC)

Second Amended and Restated Trademark License Agreement, dated as of July 11, 2005, between Homestead Village L.L.C. (f/k/a BRE/Homestead Village LLC), as licensor, and ESH/TX Properties LP (f/k/a BRE/TX Properties L.P.)

Exhibit G

Mezzanine Facilities

Mezzanine A Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz L.L.C., ESA P Mezz L.L.C., and ESA Mezz L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine B Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 2 L.L.C., ESA P Mezz 2 L.L.C., and ESA Mezz 2 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine C Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 3 L.L.C., ESA P Mezz 3 L.L.C., and ESA Mezz 3 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine D Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 4 L.L.C., ESA P Mezz 4 L.L.C., and ESA Mezz 4 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine E Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 5 L.L.C., ESA P Mezz 5 L.L.C., and ESA Mezz 5 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine F Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 6 L.L.C., ESA P Mezz 6 L.L.C., and ESA Mezz 6 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine G Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 7 L.L.C., ESA P Mezz 7 L.L.C., and ESA Mezz 7 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine H Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 8 L.L.C., ESA P Mezz 8 L.L.C., and ESA Mezz 8 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine I Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 9 L.L.C., ESA P Mezz 9 L.L.C., and ESA Mezz 9 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Mezzanine J Loan Agreement, dated as of June 11, 2007, by and among ESH/Homestead Mezz 10 L.L.C., ESA P Mezz 10 L.L.C., and ESA Mezz 10 L.L.C., as Borrowers, and Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., Bank of America, N.A., and Ebury Finance Limited, as Lenders

Exhibit H

New Mortgage Notes*

Tranche	Amount	Rate (Years 1-5)	Rate (Year 6)	Rate (Year 7)
Certificate A1/ Tranche A	\$550.382 million	L + 1.20545%	L + 1.70545%	L + 2.20545%
Certificate A2/ Tranche B	\$400.946 million	6.67995%	7.17995%	7.67995%
Certificate A3/ Tranche C	\$801.908 million	7.22995%	7.72995%	8.22995%
Certificate A4/ Tranche D	\$794.061 million	7.72995%	8.22995%%	8.72995%

* Projected as of 6/30/10; subject to change based on Confirmation Date.

Exhibit B

Disclosure Statement Order

TO BE PROVIDED

Exhibit C

Projected Financial Information

EXHIBIT C

NewCo *Financial Projections*

Principal Assumptions

The Projections are based on, and assume the successful implementation of, the Debtors' business plan. Both the Debtors' business plan and the Projections reflect numerous assumptions, including general business and economic conditions, as well as lodging industry trends, and other matters that, though considered reasonable by the Debtors in light of current circumstances, may not materialize and are inherently subject to significant business, economic and competitive uncertainties and contingencies which are beyond the Debtors' control. Additionally, the Projections assume the management of NewCo will perform according to certain expectations, which may not occur. **Therefore, although the Projections are necessarily presented with numerical specificity, the actual results achieved during the Projection Period are likely to vary from the Projections. These variations may be material. Accordingly, no representation can be or is being made with respect to the accuracy of the Projections or the ability of NewCo to achieve the Projections and the Projections may not be relied upon as a guaranty or other assurance with respect to the actual results that will occur.** See Section IX of the Disclosure Statement for a discussion of certain factors that may affect the future financial performance of NewCo. The Projections also include assumptions as to the estimated value of NewCo, the fair value of its assets and its actual liabilities as of the Effective Date. NewCo will be required to make such estimates as of the Effective Date. Such determinations will be based upon the estimated fair values as of that date, which could be materially higher or lower than the values assumed in the estimates contained in the Projections. **In deciding whether to vote to accept or reject the Plan, holders of Claims entitled to vote must make their own determinations as to the reasonableness of the assumptions underlying, and the reliability of, the Projections.** See Section IX of the Disclosure Statement.

Independent auditors have neither compiled nor examined the Projections to determine the reasonableness thereof and, accordingly, no independent auditors have expressed any opinion or other form of assurance with respect to them. Moreover, the Projections have not been prepared with a view toward compliance with guidelines established with respect to projections by the SEC or the American Institute of Certified Public Accountants ("AICPA"). The principal assumptions used in preparing the Projections are as follows:

- (a) Effective Date; Plan Terms: Even though the Plan currently requires that the Confirmation Date occur on or before June 3, 2010, for purposes of these Projections, Confirmation of the Plan is assumed to occur during the second quarter of fiscal 2010 and the Effective Date is assumed to occur on June 30, 2010. The Projections also assume that:
 - (i) the total amount of Allowed Claims in each Class is the actual or estimated aggregate amount thereof set forth in Section II of the Disclosure Statement;
 - (ii) there are no material cure payments for the assumption of Executory Contracts and Unexpired Leases; and
 - (iii) the estimated total amount of Priority Tax Claims, Administrative Claims, and other reorganization expenses is approximately \$56 million and includes, among other items: legal, accounting, financial advisory and other professional fees associated with implementation of the Plan to be paid after the Effective Date.

See Section II of the Disclosure Statement for a brief summary of the principal provisions of the Plan.

- (b) General Economic Conditions: The Projections were prepared based on assumptions that the overall economy will grow throughout the Projection Period and that there will be no significant change in the markets in which the Debtors operate.

(c) Principal Operating and Financial Assumptions

(i) Revenues: NewCo’s forward earnings projections assume the implementation of a \$480 million capital spend program and are based on key revenue drivers for NewCo’s three discrete rebranded portfolios.

- (A) Portfolios are based on planned post emergence brand consolidation and consist of Homestead Deluxe, Homestead Suites and Extended Stay America. These brands will focus on different core customers with different lengths of stay. Homestead Deluxe will focus on the upscale corporate transient customer, whereas Homestead will focus on corporate mid-scale extended stay customers and ESA will focus on the economy segment with longer stays.
- (B) Revenue projections were developed for each portfolio based on anticipated relative performance to the broader lodging market and the associated return on investment from anticipated capital spends. The implied ROI versus non-capital plan is approximately 25%.
- (C) Considering the amount of cumulative sector RevPAR decline combined with significant extended stay sector supply growth, the Projections anticipate NewCo’s recovery to peak real RevPAR to be longer than in recent previous cycles.
- (D) The Projections assume a ten year cycle to return to 2007 peak real RevPAR. Real RevPAR is projected to have declined 29% from 2007 through 2009. The previous two cycles had declines of 10% and 15%, respectively and the 1999 cycle downturn was largely a result of short-term disruption and a modest economic decline. The key operating assumptions are ¹:

Key Operating Assumptions								
	2007	2008	2009E	2010E	2011E	2012E	2013E	2014E
Occupancy	69.8%	64.5%	62.5%	62.8%	65.2%	67.0%	69.2%	71.3%
Change (bps)	151	(529)	(198)	24	239	189	219	206
% Change	2.2%	(7.6%)	(3.1%)	0.4%	3.8%	2.9%	3.3%	3.0%
ADR	\$56.01	\$56.60	\$46.08	\$44.34	\$45.47	\$47.70	\$50.78	\$54.08
% Change	2.0%	1.0%	(18.6%)	(3.8%)	2.5%	4.9%	6.5%	6.5%
Nominal RevPAR	\$39.10	\$36.51	\$28.81	\$27.83	\$29.62	\$31.98	\$35.16	\$38.56
% Change	4.2%	(6.6%)	(21.1%)	(3.4%)	6.5%	7.9%	9.9%	9.7%
Real RevPAR (a)	\$36.85	\$33.01	\$26.18	\$24.83	\$26.00	\$27.50	\$29.68	\$31.95
% Change	1.4%	(10.4%)	(20.7%)	(5.2%)	4.7%	5.8%	7.9%	7.6%

(a) Real RevPAR based on CPI inflation per Moody's Economy.com.

- (E) Although supply growth in the broader lodging sector is expected to be modest, extended-stay segment supply growth is expected to be substantial and to moderate the pace of recovery to peak RevPAR. For the three years preceding the 1991 and 2001 negative RevPAR periods, hotel industry supply grew by approximately 4%. US lodging supply growth for the three years preceding the current downturn has been a more modest 1.3% but the extended stay segment has grown at a significantly greater rate of 6.2%. Supply growth in the extended stay segment is expected to continue to outpace the broader lodging sector materially over the next two years, with projected growth of 6.2% and 1.9%.

¹ Operating assumptions for the Debtors’ Revised Business Plan 4 (“RBP4”). 2009 data is projected as of the time of the forecasting. 2009 actual Nominal RevPAR was down 19.5% over 2008 as a result of the long term lodging (“LTL”) program. Forecasts are based upon RBP4 2009 data, as 2009 actual does not represent a normalized business mix.

respectively.² Projections assume elevated supply growth, although lower than projected above, given the uncertainty in the financing market.

- (F) Despite the recent transition to a long term lodging (“LTL”) strategy to bolster demand during the current downturn, NewCo’s strategy going forward will remain focused on the core extended stay guests and revenue projections assume the same. As demand drivers for core extended stay lodging decreased, the Debtors transitioned to focus on guest stays greater than 30 days as an apartment alternative. As of December 2009, the LTL program comprised approximately 27% of available inventory. Additionally, percent of room nights attributable to guests staying more than 30 nights increased from approximately 43% in January 2008 to approximately 61% in December 2009. As demand for core extended stay returns in 2010, NewCo will transition back to the historical customer model and may encounter some disruption in operating performance as part of the transition, which is projected to be completed by 3Q 2010.
 - (G) Other revenue, which includes telecom, guest laundry and vending and concessions, is shown net of applicable expenses and projected to grow at 2% per annum. Other revenue also includes forecasted net operating income for the Debtors’ office property in Spartanburg, SC, which currently leases approximately 38,000 square feet to third-party tenants.
- (ii) Expenses: Non-controllable property level expense growth is based on inflation, whereas controllable property level expenses are adjusted based on property level demand. Controllable property level expenses use a 70%/30% fixed/variable assumption.
- (A) Property level fixed controllable and non-controllable expenses are assumed to grow at 2% per annum for 2010 and thereafter. The Business Plan reflects controllable costs per occupied room that are in-line with a long-term mix of lodging demand (more transient and less than 29 night stays) as compared to the current recessionary business model (LTL strategy). Controllable costs per occupied room declined 8.2% in 2009 to \$18.06, primarily due to the decrease in staffing levels due to the Debtors’ focus on LTL, which requires lower service levels. Assuming a normalized mix of business, these costs will be approximately \$19.47 in 2010. Approximately 60% of controllable costs are labor related.
 - (B) After adjusting for special items, corporate overhead and other recurring corporate expenses are per the budget for 2009, and then grown at 2.5% per annum thereafter. Restructuring costs in 2009, which have been adjusted for 2010, were approximately \$33 million. Budgeted incremental marketing/advertising expense of \$3.7 million in 2009 will increase to \$11 million per year thereafter, which represents a more normalized spend in line with industry standards.
 - (C) In addition to the FF&E reserve of 4% of all revenue for 666 hotels, capital spending programs of \$480million are carried out from 2H2010 through 2013.
- (iii) Balance Sheet Projections: In order to forecast change in net working capital and other non-current assets, certain balance sheet items are projected using assumptions consistent with historical Debtor trends. Accounts receivable are projected using a collection period assumption while all other working capital items are projected as a percent of forecasted room revenue or using an annual growth rate. Other non-current assets are projected as a

² Historical growth rates represent compounded annual growth rates per Smith Travel Research. Projected growth rates represent compounded annual growth rates per Lodging Econometrics.

percent of forecasted room revenue and other non-current liabilities are projected using an annual growth rate.

- (iv) LTL Adjustment: NewCo intends to transition back to the historical customer model, as described in Section (c)(i)(F) of Exhibit C. Operating projections for RBP4 assume no incremental EBITDA from the LTL customer model. While RBP4 projections illustrate normalized operations, management expects to experience elevated EBITDA in 2010 before the LTL program is fully wound down. Accordingly, the 2H2010 Statement of Operations shows an adjustment for incremental EBITDA from the LTL program to reflect fully management's operating expectations for 2010. The cash balance at emergence reflects the incremental EBITDA above RBP4 projections from the LTL program for 1H2010. For additional explanation of the LTL adjustment methodology, see Section VIII.C.2(d).
- (v) Depreciation: Depreciation expense is projected for four separate categories including existing PP&E, recurring capital expenditures, the \$480 million capital plan and IT projects. Each category assumes a unique allocation of capital to land, buildings/improvements, site improvements and FF&E/office equipment. The allocation is based on historical trends and management's expectations for the make-up of future projects. The following classes use straight-line depreciation over fixed time horizons: land (not depreciated), buildings/improvements (30 years), site improvements (20 years) and FF&E/office equipment (7 years).
- (vi) Post-Reorganization Debt and Interest Expense: The Plan contemplates two separate capital structures, one for the scenario where Class 2 accepts the Plan (the "Consensual Plan") and one for the scenario where Class 2 rejects the Plan (the "Cramdown Plan").
 - (A) The Consensual Plan Projections assume that, immediately after the Effective Date, NewCo's debt will consist of the \$2.547 billion New Mortgage Loan and the \$5.0 million New ESA UD Mortgage Facility, assuming that that no certificate holders elect to receive New Unsecured Notes in lieu of NewCo Common Interests. Interest payments on the New Mortgage Loan are based on a forward 1-month London Interbank Offered Rate ("LIBOR") curve and are paid monthly in arrears. The New Mortgage Loan carries a blended rate of 6.59% based on the 5-year LIBOR swap rate for the floating portion and all payments are made in cash when due. Payments on the New ESA UD Mortgage Facility are fixed at a rate of 5.0% per annum and are paid monthly in arrears.
 - (B) The Cramdown Plan Projections assume that, immediately after the Effective Date, NewCo's debt will consist of the \$3.2 billion New Alternate Mortgage Loan and the \$5.0 million New ESA UD Mortgage Facility. Interest payments on the New Mortgage Loan are assumed to be fixed at 5.34% and are paid monthly in arrears. Payments on the New ESA UD Mortgage Facility are fixed at a rate of 5.0% per annum and are paid monthly in arrears.
- (vii) Post-Reorganization Taxes: For illustrative purposes, the Projections assume NewCo is organized as an LLC. Accordingly, no corporate income taxes are included in the Projections.
- (d) Fresh-Start Reporting: The foregoing assumptions and resulting computations were made solely for purposes of preparing the Projections. The AICPA has issued a Statement of Position on Financial Reporting by Entities in Reorganization Under the Bankruptcy Code (the "Reorganization SOP"). NewCo will be required to determine the amount by which its reorganization value as of the Effective Date exceeds, or is less than, the fair value of its assets as of the Effective Date. Such determination will be based upon the fair values as of that time, which could be materially higher or lower than the values assumed in the foregoing computations, and may be based on a different methodology with respect to the determination of NewCo's value. In

all events, such valuation, as well as the determination of the fair value of NewCo's assets and the determination of its actual liabilities, will be made as of the Effective Date, and the differences between the amounts of any or all of the foregoing items as assumed in the Projections and the actual amounts thereof as of the Effective Date may be material.

The Projections have been prepared to reflect a simplified "fresh-start" presentation as of the Effective Date. The Projections reflect adjustments to property values using Reorganized Asset Value based on the Plan and the consolidation of certain intellectual property on NewCo's books and records. HVM is consolidated from a financial point of view in the Projections.

Projections

As indicated above, the projected consolidated financial statements of NewCo set forth below have been prepared based on the assumption that the Effective Date is June 30, 2010. Although the Debtors presently intend to seek to cause the Effective Date to occur as soon as practicable and the Investment Agreement requires the Effective Date to occur within fifteen days following entry of the Confirmation Order, there can be no assurance as to when the Effective Date actually will occur.

The projected consolidated financial statements set forth below, for both the Consensual Plan and Cramdown Plan, include:

- (a) NewCo's projected pro forma balance sheet as of June 30, 2010, representing: (i) the projected consolidated financial position of NewCo as of June 30, 2010, but prior to the consummation of the transactions which the Plan contemplates will occur on the Effective Date; (ii) the projected adjustments to such projected consolidated financial position required to reflect Confirmation and the consummation of the transactions which the Plan contemplates will occur on the Effective Date (collectively, the "Emergence Adjustments"); and (iii) the projected consolidated financial position of NewCo as of June 30, 2010, after giving effect to the Emergence Adjustments. The Emergence Adjustments set forth in the columns captioned "Recapitalization" and "Fresh Start" reflect the assumed effects of the consummation of the transactions contemplated by the Plan. The various Emergence Adjustments are described in greater detail in the notes to NewCo's projected pro forma balance sheet.
- (b) NewCo's projected pro forma consolidated balance sheets representing the projected consolidated financial position of NewCo as of June 30, 2010, after giving effect to the consummation of the transactions which the Plan contemplates will occur on the Effective Date, and as of each of December 31, 2010, 2011, 2012, 2013, and 2014.
- (c) NewCo's projected pro forma consolidated statements of operations, representing the projected consolidated results of operations of NewCo for the six months ending December 31, 2010 and the fiscal years ending December 31, 2010, 2011, 2012, 2013, and 2014.
- (d) NewCo's projected pro forma consolidated statements of cash flows representing the projected consolidated cash flows of NewCo for the six months ending December 31, 2010 and the fiscal years ending December 31, 2010, 2011, 2012, 2013, and 2014.

NEWCO – CONSENSUAL PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEET
JUNE 30, 2010
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Balance Sheet				
	June 30, 2010	Emergence Adjustments		June 30, 2010
	Projected	Recapitalization	Fresh Start	Pro Forma
Assets				
Current Assets				
Cash and cash equivalents, unrestricted	\$36.7	\$346.9 ^(a)	-	\$383.6
Restricted cash	1.9	15.6 ^(b)	-	17.5
Accounts receivable, net of allowance for doubtful accounts	17.3	-	-	17.3
Other current assets	26.8	-	-	26.8
Due from DL-DW Holdings LLC	20.2	(20.2) ^(c)	-	-
Due from TLG Hotel Acquisitions LLC	0.0	-	-	0.0
Total current assets	103.0	342.3	-	445.2
Property and equipment, net of accumulated depreciation	6,179.2	-	(2,896.2) ^(d)	3,283.0
Land available for sale	1.1	-	-	1.1
Deferred financing costs, net of accumulated amortization	12.3	(12.3) ^(e)	-	-
Trademarks	-	45.1 ^(f)	-	45.1
License of trademarks, net of accumulated amortization	8.2	(8.2) ^(f)	-	-
Under market trademark licenses, net of accumulated amortization	11.5	(11.5) ^(f)	-	-
Other intangible assets, net of accumulated amortization	16.4	(16.4) ^(g)	-	-
Other assets	6.2	-	-	6.2
Total assets	\$6,337.9	\$339.1	(\$2,896.2)	\$3,780.7
Liabilities and Members' Equity				
Current liabilities				
Accounts payable and other accrued expenses	\$51.3	-	-	\$51.3
Accrued real estate taxes	27.5	-	-	27.5
Accrued interest payable	8.7	(8.7) ^(h)	-	-
Accrued professional fees	8.5	(8.5) ⁽ⁱ⁾	-	-
Deferred revenue	11.0	-	-	11.0
Advance from insider	7.9	(7.9) ⁽ⁱ⁾	-	-
Notes payable to Extended Stay, Inc.	13.7	(13.7) ⁽ⁱ⁾	-	-
Due to BHAC Capital IV L.L.C.	1.3	(1.3) ⁽ⁱ⁾	-	-
Total current liabilities	130.0	(40.2)	-	89.8
Mortgages payable	4,108.3	(4,108.3) ^(k)	-	-
New Mortgage Loan	-	2,547.3 ^(l)	-	2,547.3
New ESA UD Mortgage Facility	-	5.0 ^(m)	-	5.0
New Unsecured Notes	-	-	-	-
Other liabilities	4.9	-	-	4.9
Deferred income tax liability - noncurrent	10.9	(10.9) ⁽ⁿ⁾	-	-
Total liabilities	\$4,254.1	(\$1,607.2)	-	\$2,646.9
Members' equity/(deficit)				
Additional Paid in Capital	3,839.4	190.6	(2,896.2)	1,133.7
Retained earnings	(1,755.7)	1,755.7	-	-
Total members' equity/(deficit)	\$2,083.7	\$1,946.2	(\$2,896.2)	\$1,133.7
Total liabilities and members' equity/(deficit)	\$6,337.9	\$339.1	(\$2,896.2)	\$3,780.7

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

**NOTES TO NEWCO – CONSENSUAL PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEET**

Upon emergence from Chapter 11, the Debtors will be required to adopt Fresh Start Accounting in accordance with SOP 90-7, which requires the Debtors to revalue its assets and liabilities at their estimated fair value. Fresh start reporting reflects the value of the Debtors as defined in the Plan of Reorganization. Under fresh-start reporting, the Debtors' asset values are remeasured using fair value, and are allocated in conformity with Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS 141"). The excess of reorganization value over the fair value of net tangible and identifiable intangible assets and liabilities is recorded as goodwill in the accompanying statements. The foregoing estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Debtors. Accordingly, the Debtors cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially. In accordance with SFAS 141, the preliminary allocation of the reorganization value is subject to additional adjustment within one year after emergence from bankruptcy to provide the Debtors time to complete the valuation of its assets and liabilities. Most assets and liabilities have been shown at book value, which in management's opinion approximates fair value, except where noted. The New Debt Securities have been shown at face value.

- (a) Cash adjustments include:
 - (i) the following estimated payments:
 - (A) the payment of \$7.8 million under the Revised HVM Incentive Plan; and
 - (B) the payment of \$32.7 million of legal, accounting, financial advisory and other professional fees associated with implementation of the Plan; and
 - (C) the payment of \$30.0 million as consideration to HVM Manager Owner, in exchange for control of HVM; and
 - (D) the posting of \$17.5 million as a cash deposit to Zurich American Insurance Company to secure certain insurance-related letters of credit, which is transferred to a restricted cash account; and
 - (E) the payment of \$15.2 million, which represents the estimated unpaid adequate protection payments;
 - (ii) receipt of \$225 million of proceeds under the New Investment component of the Plan (see Section VII.F of the Disclosure Statement); and
 - (iii) receipt of \$225 million of proceeds under the Rights Offering component of the Plan (see section VII.F of the Disclosure Statement).
- (b) Represents payments related to the Revised HVM Incentive Program, which were previously held in a segregated account, and the posting of the \$17.5 million cash deposit noted above.
- (c) Represents release of cash collateral held at DL-DW Holdings LLC as stipulated under the Plan.
- (d) Represents impairment of Property and Equipment value based on estimated reorganized enterprise value.
- (e) Represents cancellation of deferred financing costs related to pre-petition loan liability.
- (f) Represents contribution of certain Intellectual Property assets to NewCo by BHAC and Homestead. Assumes NewCo enters into BHAC IP Transfer Agreement per Section 6.14(a) of the

Plan and the Bankruptcy Court grants the Homestead IP Abandonment Motion per Section 6.14(b) of the Plan.

- (g) Represents write off of other intangible assets as result of ch. 11 filing.
- (h) Represents cancellation of accrued interest.
- (i) Represents payment of estimated accrued professional fees upon emergence.
- (j) Represents cancellation of pre-petition liability.
- (k) Represents cancellation of pre-petition liability in exchange for New Mortgage Loan, New ESA UD Mortgage Facility, New Unsecured Notes, NewCo Common Interests, Rights Offering Participation and New A Warrants.
- (l) Represents New Mortgage Notes provided to the Mortgage Trust.
- (m) Represents New ESA UD Mortgage Facility.
- (n) Represents possible election of New Unsecured Notes by certain Certificate holders in lieu of receipt of NewCo Common Interests.
- (o) Represents adjustment to liability upon reorganization into assumed illustrative LLC structure.

NEWCO – CONSENSUAL PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEETS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Balance Sheet						
	June 30, 2010	December 31,				
	Pro Forma	2010E	2011E	2012E	2013E	2014E
Assets						
Current Assets						
Cash and cash equivalents, unrestricted	\$383.6	\$357.4	\$339.2	\$320.5	\$361.0	\$616.2
Restricted cash	17.5	17.5	17.5	17.5	17.5	17.5
Accounts receivable, net of allowance for doubtful accounts	17.3	15.2	16.2	17.6	19.3	21.1
Other current assets	26.8	20.9	22.2	24.1	26.4	28.9
Due from TLG Hotel Acquisitions LLC	0.0	0.0	0.0	0.0	0.0	0.0
Total current assets	445.2	411.0	395.2	379.6	424.1	683.8
Property and equipment, net of accumulated depreciation	3,283.0	3,342.3	3,344.0	3,367.6	3,369.6	3,222.5
Land available for sale	1.1	1.1	1.1	1.1	1.1	1.1
Trademarks	45.1	45.1	45.1	45.1	45.1	45.1
Other assets	6.2	5.2	5.6	6.0	6.6	7.2
Total assets	\$3,780.7	\$3,804.8	\$3,791.0	\$3,799.5	\$3,846.6	\$3,959.8
Liabilities and Members' Equity						
Current liabilities						
Accounts payable and other accrued expenses	\$51.3	\$45.2	\$48.1	\$52.1	\$57.1	\$62.7
Accrued real estate taxes	27.5	26.3	27.1	27.9	28.8	29.7
Accrued interest payable	-	39.8	41.8	43.3	44.4	45.0
Deferred revenue	11.0	11.2	11.7	12.1	12.6	13.2
Total current liabilities	89.8	122.5	128.8	135.5	142.9	150.5
New Mortgage Loan	2,547.3	2,547.3	2,547.3	2,547.3	2,547.3	2,547.3
New ESA UD Mortgage Facility	5.0	5.0	5.0	5.0	5.0	5.0
Other liabilities	4.9	5.0	5.2	5.4	5.6	5.8
Total liabilities	\$2,646.9	\$2,679.8	\$2,686.3	\$2,693.2	\$2,700.8	\$2,708.6
Members' equity/(deficit)						
Additional Paid in Capital	1,133.7	1,133.7	1,133.7	1,133.7	1,133.7	1,133.7
Retained earnings	-	(8.8)	(29.0)	(27.4)	12.0	117.4
Total members' equity/(deficit)	\$1,133.7	\$1,125.0	\$1,104.7	\$1,106.3	\$1,145.8	\$1,251.1
Total liabilities and members' equity/(deficit)	\$3,780.7	\$3,804.8	\$3,791.0	\$3,799.5	\$3,846.6	\$3,959.8

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NEWCO – CONSENSUAL PLAN
PROJECTED PRO FORMA CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Statement of Operations					
	Fiscal Year Ended December 31,				
	2H 2010E	2011E	2012E	2013E	2014E
Revenues					
Rooms revenue	\$383.6	\$796.9	\$862.5	\$945.7	\$1,037.2
Other (net of expenses)	0.2	0.5	0.4	0.4	0.4
Total Revenues	<u>\$383.7</u>	<u>\$797.3</u>	<u>\$863.0</u>	<u>\$946.1</u>	<u>\$1,037.6</u>
Operating Expenses, excl. D&A					
Controllable property expenses	(172.9)	(339.4)	(350.3)	(361.6)	(373.3)
Non-controllable property expenses	(47.4)	(97.5)	(99.5)	(101.4)	(103.5)
Corporate overhead	(39.7)	(83.0)	(85.0)	(87.2)	(89.3)
Incremental marketing overhead	(5.5)	(11.0)	(11.0)	(11.0)	(11.0)
Total Operating Expenses, excl. D&A	<u>(\$265.5)</u>	<u>(\$530.9)</u>	<u>(\$545.8)</u>	<u>(\$561.2)</u>	<u>(\$577.1)</u>
EBITDA excluding LTL	<u>\$118.2</u>	<u>\$266.4</u>	<u>\$317.2</u>	<u>\$384.9</u>	<u>\$460.5</u>
Incremental LTL EBITDA	3.5	-	-	-	-
EBITDA including LTL	<u>\$121.7</u>	<u>\$266.4</u>	<u>\$317.2</u>	<u>\$384.9</u>	<u>\$460.5</u>
Depreciation	(58.8)	(135.9)	(156.8)	(181.9)	(194.9)
Amortization	-	-	-	-	-
Operating Income/(Loss)	<u>\$62.9</u>	<u>\$130.5</u>	<u>\$160.4</u>	<u>\$203.0</u>	<u>\$265.6</u>
Interest expense	(79.5)	(164.7)	(172.0)	(176.5)	(179.7)
Interest income	7.8	13.9	13.2	12.9	19.5
Income tax expense	-	-	-	-	-
Net Income/(Loss)	<u>(\$8.8)</u>	<u>(\$20.3)</u>	<u>\$1.6</u>	<u>\$39.5</u>	<u>\$105.4</u>

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NEWCO – CONSENSUAL PLAN
PROJECTED PRO FORMA CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Statement of Cash Flows					
	Fiscal Year Ended December 31,				
	2H 2010E	2011E	2012E	2013E	2014E
Operating Activities					
Net Income/(Loss)	(\$8.8)	(\$20.3)	\$1.6	\$39.5	\$105.4
Adjustments to reconcile net loss to operating cash					
Depreciation	58.8	135.9	156.8	181.9	194.9
Amortization	-	-	-	-	-
Change in net working capital	40.8	3.9	3.5	3.4	3.2
Net cash provided by (used in) operating activities	<u>\$90.8</u>	<u>\$119.6</u>	<u>\$161.9</u>	<u>\$224.8</u>	<u>\$303.4</u>
Investing Activities					
Capital expenditures	(115.5)	(132.1)	(174.8)	(178.1)	(41.8)
IT projects	(2.7)	(5.5)	(5.6)	(5.8)	(6.0)
Change in net other non-current assets	1.1	(0.1)	(0.2)	(0.4)	(0.4)
Net cash provided by (used in) investing activities	<u>(\$117.0)</u>	<u>(\$137.7)</u>	<u>(\$180.6)</u>	<u>(\$184.3)</u>	<u>(\$48.2)</u>
Financing Activities					
Net cash used in financing activities	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Net increase/(decrease) in cash and cash equivalents	(\$26.2)	(\$18.2)	(\$18.7)	\$40.5	\$255.2
Beginning cash and cash equivalents	383.6	357.4	339.2	320.5	361.0
Ending cash and equivalents	<u><u>\$357.4</u></u>	<u><u>\$339.2</u></u>	<u><u>\$320.5</u></u>	<u><u>\$361.0</u></u>	<u><u>\$616.2</u></u>

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NEWCO – CRAMDOWN PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEET
JUNE 30, 2010
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Balance Sheet				
	June 30, 2010	Emergence Adjustments		June 30, 2010
	Projected	Recapitalization	Fresh Start	Pro Forma
Assets				
Current Assets				
Cash and cash equivalents, unrestricted	\$36.7	\$216.9 ^(a)	-	\$253.6
Restricted cash	1.9	15.6 ^(b)	-	17.5
Accounts receivable, net of allowance for doubtful accounts	17.3	-	-	17.3
Other current assets	26.8	-	-	26.8
Due from DL-DW Holdings LLC	20.2	(20.2) ^(c)	-	-
Due from TLG Hotel Acquisitions LLC	0.0	-	-	0.0
Total current assets	103.0	212.3	-	315.2
Property and equipment, net of accumulated depreciation	6,179.2	-	(2,927.3) ^(d)	3,251.9
Land available for sale	1.1	-	-	1.1
Deferred financing costs, net of accumulated amortization	12.3	(12.3) ^(e)	-	-
Trademarks	-	45.1 ^(f)	-	45.1
License of trademarks, net of accumulated amortization	8.2	(8.2) ^(f)	-	-
Under market trademark licenses, net of accumulated amortization	11.5	(11.5) ^(f)	-	-
Other intangible assets, net of accumulated amortization	16.4	(16.4) ^(g)	-	-
Other assets	6.2	-	-	6.2
Total assets	\$6,337.9	\$209.1	(\$2,927.3)	\$3,619.6
Liabilities and Members' Equity				
Current liabilities				
Accounts payable and other accrued expenses	\$51.3	-	-	\$51.3
Accrued real estate taxes	27.5	-	-	27.5
Accrued interest payable	8.7	(8.7) ^(h)	-	-
Accrued professional fees	8.5	(8.5) ⁽ⁱ⁾	-	-
Deferred revenue	11.0	-	-	11.0
Advance from insider	7.9	(7.9) ^(j)	-	-
Notes payable to Extended Stay, Inc.	13.7	(13.7) ^(j)	-	-
Due to BHAC Capital IV L.L.C.	1.3	(1.3) ^(j)	-	-
Total current liabilities	130.0	(40.2)	-	89.8
Mortgages payable	4,108.3	(4,108.3) ^(k)	-	-
New Alternate Mortgage Loan	-	3,200.0 ^(l)	-	3,200.0
New ESA UD Mortgage Facility	-	5.0 ^(m)	-	5.0
Other liabilities	4.9	-	-	4.9
Deferred income tax liability - noncurrent	10.9	(10.9) ⁽ⁿ⁾	-	-
Total liabilities	\$4,254.1	(\$954.5)	-	\$3,299.6
Members' equity/(deficit)				
Additional Paid in Capital	3,839.4	(592.1)	(2,927.3)	320.0
Retained earnings	(1,755.7)	1,755.7	-	-
Total members' equity/(deficit)	\$2,083.7	\$1,163.5	(\$2,927.3)	\$320.0
Total liabilities and members' equity/(deficit)	\$6,337.9	\$209.1	(\$2,927.3)	\$3,619.6

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NOTES TO NEWCO – CRAMDOWN PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEET

Upon emergence from Chapter 11, the Debtors will be required to adopt Fresh Start Accounting in accordance with SOP 90-7, which requires the Debtors to revalue its assets and liabilities at their estimated fair value. Fresh start reporting reflects the value of the Debtors as defined in the Plan of Reorganization. Under fresh-start reporting, the Debtors' asset values are remeasured using fair value, and are allocated in conformity with Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS 141"). The excess of reorganization value over the fair value of net tangible and identifiable intangible assets and liabilities is recorded as goodwill in the accompanying statements. The foregoing estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Debtors. Accordingly, the Debtors cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially. In accordance with SFAS 141, the preliminary allocation of the reorganization value is subject to additional adjustment within one year after emergence from bankruptcy to provide the Debtors time to complete the valuation of its assets and liabilities. Most assets and liabilities have been shown at book value, which in management's opinion approximates fair value, except where noted. The New Debt Securities have been shown at face value, which the Debtors.

- (a) Cash adjustments include:
 - (i) the following estimated payments:
 - (A) the payment of \$7.8 million under the Revised HVM Incentive Plan; and
 - (B) the payment of \$32.7 million of legal, accounting, financial advisory and other professional fees associated with implementation of the Plan; and
 - (C) the payment of \$30.0 million as consideration to HVM Manager Owner, in exchange for control of HVM; and
 - (D) the posting of \$17.5 million as a cash deposit to Zurich American Insurance Company to secure certain insurance-related letters of credit, which is transferred to a restricted cash account; and
 - (E) the payment of \$15.2 million, which represents the estimated unpaid adequate protection payments;
 - (ii) receipt of \$320 million of proceeds under the New Investment component of the Plan (see Section VII.F of the Disclosure Statement); and
- (b) Represents payments related to the Revised HVM Incentive Program, which were previously held in a segregated account, and the posting of the \$17.5 million cash deposit noted above.
- (c) Represents release of cash collateral held at DL-DW Holdings LLC as stipulated under the Plan.
- (d) Represents impairment of Property and Equipment value based on estimated reorganized enterprise value.
- (e) Represents cancellation of deferred financing costs related to pre-petition loan liability.
- (f) Represents contribution of certain Intellectual Property assets to NewCo by BHAC and Homestead. Assumes NewCo enters into BHAC IP Transfer Agreement per Section 6.14(a) of the Plan and the Bankruptcy Court grants the Homestead IP Abandonment Motion per Section 6.14(b) of the Plan.
- (g) Represents write off of other intangible assets as result of ch. 11 filing.

- (h) Represents cancellation of accrued interest.
- (i) Represents payment of estimated accrued professional fees upon emergence.
- (j) Represents cancellation of pre-petition liability.
- (k) Represents cancellation of pre-petition liability in exchange for New Alternate Mortgage Loan.
- (l) Represents New Alternate Mortgage Notes provided to the Mortgage Trust.
- (m) Represents New ESA UD Mortgage Facility.
- (n) Represents adjustment to liability upon reorganization into assumed illustrative LLC structure.

NEWCO – CRAMDOWN PLAN
PROJECTED PRO FORMA CONSOLIDATED BALANCE SHEETS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Balance Sheet						
	June 30, 2010	December 31,				
	Pro Forma	2010E	2011E	2012E	2013E	2014E
Assets						
Current Assets						
Cash and cash equivalents, unrestricted	\$253.6	\$220.8	\$185.9	\$157.4	\$193.1	\$447.2
Restricted cash	17.5	17.5	17.5	17.5	17.5	17.5
Accounts receivable, net of allowance for doubtful accounts	17.3	15.2	16.2	17.6	19.3	21.1
Other current assets	26.8	20.9	22.2	24.1	26.4	28.9
Due from TLG Hotel Acquisitions LLC	0.0	0.0	0.0	0.0	0.0	0.0
Total current assets	315.2	274.4	241.9	216.5	256.3	514.7
Property and equipment, net of accumulated depreciation	3,251.9	3,311.8	3,314.5	3,339.2	3,342.3	3,196.3
Land available for sale	1.1	1.1	1.1	1.1	1.1	1.1
Trademarks	45.1	45.1	45.1	45.1	45.1	45.1
Other assets	6.2	5.2	5.6	6.0	6.6	7.2
Total assets	\$3,619.6	\$3,637.7	\$3,608.2	\$3,608.0	\$3,651.5	\$3,764.5
Liabilities and Members' Equity						
Current liabilities						
Accounts payable and other accrued expenses	\$51.3	\$45.2	\$48.1	\$52.1	\$57.1	\$62.7
Accrued real estate taxes	27.5	26.3	27.1	27.9	28.8	29.7
Accrued interest payable	-	43.3	43.3	43.3	43.3	43.3
Deferred revenue	11.0	11.2	11.7	12.1	12.6	13.2
Total current liabilities	89.8	126.0	130.2	135.5	141.8	148.7
New Alternate Mortgage Loan	3,200.0	3,200.0	3,200.0	3,200.0	3,200.0	3,200.0
New ESA UD Mortgage Facility	5.0	5.0	5.0	5.0	5.0	5.0
Other liabilities	4.9	5.0	5.2	5.4	5.6	5.8
Total liabilities	\$3,299.6	\$3,336.0	\$3,340.4	\$3,345.9	\$3,352.4	\$3,359.6
Members' equity/(deficit)						
Additional Paid in Capital	320.0	320.0	320.0	320.0	320.0	320.0
Retained earnings	-	(18.4)	(52.2)	(57.8)	(21.0)	84.9
Total members' equity/(deficit)	\$320.0	\$301.6	\$267.8	\$262.2	\$299.0	\$404.9
Total liabilities and members' equity/(deficit)	\$3,619.6	\$3,637.7	\$3,608.2	\$3,608.0	\$3,651.5	\$3,764.5

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NEWCO – CRAMDOWN PLAN
PROJECTED PRO FORMA CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Statement of Operations					
	Fiscal Year Ended December 31,				
	2H 2010E	2011E	2012E	2013E	2014E
Revenues					
Rooms revenue	\$383.6	\$796.9	\$862.5	\$945.7	\$1,037.2
Other (net of expenses)	0.2	0.5	0.4	0.4	0.4
Total Revenues	<u>\$383.7</u>	<u>\$797.3</u>	<u>\$863.0</u>	<u>\$946.1</u>	<u>\$1,037.6</u>
Operating Expenses, excl. D&A					
Controllable property expenses	(172.9)	(339.4)	(350.3)	(361.6)	(373.3)
Non-controllable property expenses	(47.4)	(97.5)	(99.5)	(101.4)	(103.5)
Corporate overhead	(39.7)	(83.0)	(85.0)	(87.2)	(89.3)
Incremental marketing overhead	(5.5)	(11.0)	(11.0)	(11.0)	(11.0)
Total Operating Expenses, excl. D&A	<u>(\$265.5)</u>	<u>(\$530.9)</u>	<u>(\$545.8)</u>	<u>(\$561.2)</u>	<u>(\$577.1)</u>
EBITDA excluding LTL	<u>\$118.2</u>	<u>\$266.4</u>	<u>\$317.2</u>	<u>\$384.9</u>	<u>\$460.5</u>
Incremental LTL EBITDA	3.5	-	-	-	-
EBITDA including LTL	<u>\$121.7</u>	<u>\$266.4</u>	<u>\$317.2</u>	<u>\$384.9</u>	<u>\$460.5</u>
Depreciation	(58.3)	(134.8)	(155.7)	(180.8)	(193.8)
Amortization	-	-	-	-	-
Operating Income/(Loss)	<u>\$63.5</u>	<u>\$131.6</u>	<u>\$161.5</u>	<u>\$204.1</u>	<u>\$266.7</u>
Interest expense	(87.0)	(173.5)	(174.0)	(173.5)	(173.5)
Interest income	5.2	8.1	6.8	6.3	12.7
Income tax expense	-	-	-	-	-
Net Income/(Loss)	<u>(\$18.4)</u>	<u>(\$33.8)</u>	<u>(\$5.7)</u>	<u>\$36.9</u>	<u>\$105.9</u>

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

NEWCO – CRAMDOWN PLAN
PROJECTED PRO FORMA CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Projected Pro Forma Consolidated Statement of Cash Flows					
	Fiscal Year Ended December 31,				
	2H 2010E	2011E	2012E	2013E	2014E
Operating Activities					
Net Income/(Loss)	(\$18.4)	(\$33.8)	(\$5.7)	\$36.9	\$105.9
Adjustments to reconcile net loss to operating cash					
Depreciation	58.3	134.8	155.7	180.8	193.8
Amortization	-	-	-	-	-
Change in net working capital	44.3	1.8	2.1	2.3	2.5
Net cash provided by (used in) operating activities	\$84.2	\$102.8	\$152.1	\$220.0	\$302.2
Investing Activities					
Capital expenditures	(115.5)	(132.1)	(174.8)	(178.1)	(41.8)
IT projects	(2.7)	(5.5)	(5.6)	(5.8)	(6.0)
Change in net other non-current assets	1.1	(0.1)	(0.2)	(0.4)	(0.4)
Net cash provided by (used in) investing activities	(\$117.0)	(\$137.7)	(\$180.6)	(\$184.3)	(\$48.2)
Financing Activities					
Net cash used in financing activities	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Net increase/(decrease) in cash and cash equivalents	(\$32.9)	(\$34.9)	(\$28.5)	\$35.7	\$254.0
Beginning cash and cash equivalents	253.6	220.8	185.9	157.4	193.1
Ending cash and equivalents	\$220.8	\$185.9	\$157.4	\$193.1	\$447.2

THE PROJECTIONS SHOULD BE READ IN CONJUNCTION WITH THE ASSUMPTIONS, QUALIFICATIONS AND EXPLANATIONS UNDER THE CAPTION "PRINCIPAL OPERATING AND FINANCIAL ASSUMPTIONS."

Exhibit D

Liquidation Analysis

EXHIBIT D

Liquidation Analysis

Pursuant to section 1129(a)(7) of the Bankruptcy Code, often called the “best interests test”, Holders of Allowed Claims and Allowed Equity Interests must either (a) accept the Plan, or (b) receive or retain under the Plan property of a value, as of the Plan’s assumed Effective Date, that is not less than the value such non-accepting Holders would receive or retain if the Debtors were to be liquidated under chapter 7 of the Bankruptcy Code. The Debtors believe that the Plan meets the “best interest of creditors” test as set forth in section 1129s(a)(7) of the Bankruptcy Code. All capitalized terms not defined in this Liquidation Analysis have the meanings ascribed to them in the Plan.

The Debtors believe that the holders of Allowed Claims in each impaired class will receive at least as much under the Plan as they would if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

The Liquidation Analysis reflects the estimated cash proceeds, net of liquidation-related costs that would be realized if the Debtors were to be liquidated in accordance with chapter 7 of the Bankruptcy Code.

UNDERLYING THE LIQUIDATION ANALYSIS ARE NUMEROUS ESTIMATES AND ASSUMPTIONS REGARDING LIQUIDATION PROCEEDS THAT, ALTHOUGH DEVELOPED AND CONSIDERED REASONABLE BY THE DEBTORS’ MANAGEMENT AND ITS ADVISORS, ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, REGULATORY AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES BEYOND THE CONTROL OF THE DEBTORS, THEIR MANAGEMENT AND THEIR ADVISORS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE VALUES REFLECTED IN THE LIQUIDATION ANALYSIS WOULD BE REALIZED IF THE DEBTORS WERE, IN FACT, TO UNDERGO SUCH A LIQUIDATION, AND ACTUAL RESULTS COULD MATERIALLY DIFFER FROM THE RESULTS SET FORTH HEREIN.

The Liquidation Analysis was prepared by management of the Debtors, with the assistance of its professionals. Unless otherwise stated, the Liquidation Analysis is based on the consolidated balance sheet for the Debtors contemplated under the Plan (excluding ESA UD), and the ESA UD balance sheet as of December 31, 2009. ESA UD is considered separately within this analysis as the collateral of the ESA UD mortgage loan, the hotel properties in Findlay and Wilkes-Barre, PA, is separate and distinct from the collateral for the CMBS Mortgage Facility. The liquidation analysis is predicated on the assumption that the Debtors would commence a chapter 7 liquidation on June 30, 2010.

It is also assumed that the liquidation of the Debtors would commence under the direction of a Court-appointed trustee and would continue for a period of eight to eleven months, during which time all of the Debtors’ major assets would be sold or conveyed to their respective lien holders, and the cash proceeds, net of liquidation-related costs, would then be distributed to creditors.

Management believes the hotel assets of the Debtors have greater value as a going concern than in an orderly wind-down, and that pursuit of a distressed sale of the entire portfolio or multiple sales of hotels in regional clusters on a going-concern basis rather than an orderly wind-down would yield the best recovery for creditors in a chapter 7 liquidation. Management and its professionals estimate the distressed sale of those businesses could be completed in six to nine months, plus a two month period to wind-down the estates and make distributions. Thus, the Liquidation Analysis assumes a distressed sale on a going-concern basis for these assets. Net proceeds from the sale of these businesses would be available for distribution to creditors of the Debtors. There can be no assurances that the actual value realized in a sale of these operations would yield the results as assumed in the Liquidation Analysis.

The Liquidation Analysis assumes that liquidation proceeds would be distributed in accordance with Bankruptcy Code section 726. If the Debtors were liquidated pursuant to chapter 7 proceedings, the value available to creditors would be reduced by the costs of the liquidation, which include the fees and expenses of the trustee appointed to manage the liquidation, the fees and expenses of other professionals retained by the trustee to assist with the liquidation, costs to wind down the Estates and a carveout for chapter 11 professional fees (per the final court approved cash collateral order).

The Liquidation Analysis necessarily contains an estimate of the amount of Claims that ultimately will become Allowed Claims. Estimates for various classes of Claims are based solely upon the Debtors' review of their books and records.

Liquidation would likely prompt certain other events to occur, including the rejection of remaining executory contracts and unexpired leases not assumed by the purchaser of the going-concern business. Such events would likely create a larger number of unsecured creditors and would subject the chapter 7 estates to additional damage claims for the rejection of those contracts under the Bankruptcy Code. Such claims would also increase the aggregate amount of unsecured claims against the Debtors, perhaps materially, and would dilute any potential recoveries to holders of other unsecured claims. No attempt has been made to estimate additional unsecured claims that may result from such events.

The Liquidation Analysis assumes that there are no recoveries from the pursuit of any potential preferences, fraudulent conveyances, or other causes of action and does not include the estimated costs of pursuing those actions.

Estimated Proceeds Available for Distribution

(\$ millions)

HYPOTHETICAL LIQUIDATION ANALYSIS - NON ESA UD DEBTORS							
	Note	Estimated Claims		Estimated Recovery		Estimated Recovery %	
		Low	High	Low	High	Low	High
Proceeds Available for Distribution:							
Hotel Portfolio	A			\$1,996.2	\$2,495.3		
Cash				36.9	36.9		
Cash Generated during Chapter 7 Proceeding				103.4	145.7		
Total Proceeds Available for Distribution				\$2,136.5	\$2,677.8		
Less Chapter 7 Fees:							
Trustee Fees	B	\$39.9	\$49.9	\$39.9	\$49.9	100%	100%
Transaction Fees	C	39.9	49.9	39.9	49.9	100%	100%
Chapter 7 Estate Professional Fees	B	6.0	8.2	6.0	8.2	100%	100%
Accrued Professional Fees and Other Items	B	8.5	8.5	8.5	8.5	100%	100%
Estimated Wind-down costs	B	7.0	7.0	7.0	7.0	100%	100%
Net Proceeds Available for Distribution to Stakeholders				\$2,035.2	\$2,554.3		

HYPOTHETICAL LIQUIDATION ANALYSIS - ESA UD DEBTORS							
	Note	Estimated Claims		Estimated Recovery		Estimated Recovery %	
		Low	High	Low	High	Low	High
Proceeds Available for Distribution:							
Hotel Portfolio	A			\$3.8	\$4.7		
Cash				0.2	0.2		
Cash Generated during Chapter 7 Proceeding				0.2	0.3		
Total Proceeds Available for Distribution				\$4.2	\$5.2		
Less Chapter 7 Fees:							
Trustee Fees	B	\$0.1	\$0.1	\$0.1	\$0.1	100%	100%
Transaction Fees	C	0.1	0.1	0.1	0.1	100%	100%
Chapter 7 Estate Professional Fees	B	0.0	0.0	0.0	0.0	100%	100%
Accrued Professional Fees and Other Items	B	0.0	0.0	0.0	0.0	100%	100%
Estimated Wind-down costs	B	0.0	0.0	0.0	0.0	100%	100%
Net Proceeds Available for Distribution to Stakeholders				\$4.0	\$5.0		

Estimated Distribution of Proceeds

(\$ millions)

HYPOTHETICAL LIQUIDATION ANALYSIS - NON ESA UD DEBTORS						
Net Proceeds Available for Distribution to Stakeholders		\$2,035.2		\$2,554.3		
	Note	Estimated Claims	Estimated Recovery		Estimated Recovery %	
			Low	High	Low	High
Proceeds Available for Distribution to Secured Creditors			\$2,035.2	\$2,554.3		
Less CMBS Mortgage Debt:						
	D					
CMBS Mortgage Claim		3,887.9	\$2,035.2	\$2,554.3	52%	66%
Total CMBS Mortgage Claims		\$3,887.9	\$2,035.2	\$2,554.3		
Proceeds Available for Distribution to Administrative and Priority Claims			\$0.0	\$0.0		
Less Administrative & Priority Claims						
	E					
Administrative & Priority Claims		\$19.5	\$0.0	\$0.0		
Total Administrative & Priority Claims		\$19.5	\$0.0	\$0.0	0%	0%
Proceeds Available for Distribution to Unsecured Claims			\$0.0	\$0.0		
Less Unsecured Claims:						
	F					
Unsecured Claims		\$30.7	\$0.0	\$0.0		
Total Unsecured Claims		\$30.7	\$0.0	\$0.0	0%	0%
Proceeds Available for Distribution to Equity Interests			\$0.0	\$0.0		

HYPOTHETICAL LIQUIDATION ANALYSIS - ESA UD DEBTORS						
Net Proceeds Available for Distribution to Stakeholders		\$4.0		\$5.0		
	Note	Estimated Claims	Estimated Recovery		Estimated Recovery %	
			Low	High	Low	High
Proceeds Available for Distribution to Secured Creditors			\$4.0	\$5.0		
Less ESA UD MORTGAGE CLAIM						
	D					
ESA UD Mortgage Claim		\$8.2	\$4.0	\$5.0	49%	61%
Total ESA UD Mortgage Claim		\$8.2	\$4.0	\$5.0		
Proceeds Available for Distribution to Administrative and Priority Claims			\$0.0	\$0.0		
Less Administrative & Priority Claims						
	E					
Administrative & Priority Claims		\$0.0	\$0.0	\$0.0		
Total Administrative & Priority Claims		\$0.0	\$0.0	\$0.0	NA	NA
Proceeds Available for Distribution to Unsecured Claims			\$0.0	\$0.0		
Less Unsecured Claims:						
	F					
Unsecured Claims		\$0.0	\$0.0	\$0.0		
Total Unsecured Claims		\$0.0	\$0.0	\$0.0	NA	NA
Proceeds Available for Distribution to Equity Interests			\$0	\$0		

NOTES TO LIQUIDATION ANALYSIS

Note A – Proceeds Available for Distribution

To maximize total liquidation value, the Liquidation Analysis assumes that the Debtors' hotel properties are sold as a going concern that would be effectuated through a distressed sale of the entire portfolio of hotels or through a series of sales of clusters of hotels, and that all post petition liabilities of the various hotels existing at the time are assumed by the respective purchasers. Given that the hotels would be sold pursuant to a forced sale for cash, the Debtors believe that an appropriate range of value for the hotel properties is approximately \$2.0 billion in the low recovery scenario and \$2.5 billion in the high recovery scenario, implying a 38% and 22%, respectively, discount to the midpoint of the Debtors' estimated enterprise value. The ESA UD properties are estimated to have a value of \$3.8 million and \$4.7 million in the low recovery and high recovery case, respectively, which is calculated by applying a "value per key" implied by the discount of the enterprise value to the respective properties.

The Debtors are estimated to have cash on hand of \$37 million for the non-ESA UD properties and \$0.2 million for the ESA UD properties as of June 30, 2010, reflecting the Debtors' most recent estimates. Additionally, the Debtors are estimated to generate approximately \$104 million to \$146 million of cash, depending on the amount of time that the sale process requires.

For purposes of this Liquidation Analysis, it is assumed that the purchaser(s) of the various hotel properties will continue to use HVM as manager, honoring all pre-petition contracts by and between the debtors and HVM. Rejection of these contracts could significantly disrupt the operations of the hotel properties and result in a detrimental loss of value. HVM's familiarity with specific hotel properties and the various geographic markets in which they compete, and commanding knowledge of extended stay industry dynamics and trends is instrumental to the operations of the hotel properties. Additionally, HVM's support of financial, accounting, operating, booking and various other IT functions is necessary in order to continue seamless operations. Even if Debtor hotel assets were acquired by a hotel operator with a management team and the required infrastructure to operate these newly acquired assets, a transition period would be necessary in order to ensure integration of operations.

Rejection of these contracts could create a much larger number of unsecured creditors and could subject the chapter 7 estates to considerable additional claims for damages for breaches of those contracts or for the rejection of those contracts under the Bankruptcy Code. Such claims could also materially increase the amount of administrative, priority or general unsecured claims against the Debtors.

The estimated net proceeds available for distribution to the Debtors falls within a range from approximately \$2.0 billion to \$2.6 billion, with a mid-point estimate of \$2.3 billion, with these estimated net proceeds from the sales available for distribution according to the absolute priority rule, pursuant to which no junior creditor would receive any distribution until all senior creditors are paid in full, and no equity interest holder would receive any distribution until all creditors are paid in full.

For purposes of this Liquidation Analysis, all chapter 7 fees and expenses are allocated to the non-ESA UD and ESA UD properties on a pro-rata basis based on the value of the total proceeds available for distribution.

Note B – Trustee Fees & Wind Down Costs of Chapter 7 Estates

Compensation for the chapter 7 trustee will be limited to fee guidelines in Section 326(a) of the Bankruptcy Code. As the Debtors' principal assets, its hotel properties, will be sold as a going concern subject to a transaction fee, for purposes of this Liquidation Analysis, it is assumed that the trustee fees will be 2.0% of the gross proceeds from the sale of the hotel properties, or approximately \$40 million and \$50 million, in the low recovery and high recovery scenarios, respectively. It is also assumed that the buyer(s) will assume post-petition liabilities of the hotel properties existing at the time and the cost to operate the business during the sale process is assumed to be covered by the cash flows generated from hotel room receipts.

Once the sale is complete, certain corporate and administrative functions would be required to oversee the distribution of proceeds, and to maintain and close the accounting records for the estates, among other things. These wind-down costs are estimated to be \$7 million in either scenario, which is based on a reduced run rate of corporate general and administrative expenses at HVM, the manager of the Debtors' business.

Chapter 7 professional fees include legal, financial and accounting fees expected to be incurred during the liquidation period and are estimated to be \$750,000 per month throughout the case, for a total of \$6 million during the eight month period of the low recovery scenario and a total of \$8.25 million during the eleven month period of the high recovery scenario. In addition, the recovery available to creditors has been further reduced by \$8.5 million for accrued chapter 11 professional fees and other expenses, the maximum amount allowable under the carve-out for such items in the Debtors' "Final Order (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection, and (C) Modifying the Automatic Stay".

Note C – Transaction Fees

Transaction fees associated with the distressed sales of the Debtors' assets are assumed to be 2.0% of the gross proceeds from the sale of the hotel properties, or approximately \$40 million and \$50 million, in the low recovery and high recovery scenarios, respectively.

Note D – Secured Claims

Non ESA UD Debtors:

Secured claims of the Debtors consist entirely of the \$4.1 billion Mortgage Debt. This amount has been reduced by approximately \$212 million as the actual and expected adequate protection payments made during the course of the chapter 11 case are assumed to be re-characterized as principal payments upon conversion of the case to chapter 7, which will reduce the claim amount.

ESA UD Debtors:

Secured claims of the ESA UD Debtors consist entirely of the \$8.5 million ESA UD Mortgage Claim. This amount has been reduced by approximately \$293,000 as the actual and expected adequate protection payments made during the course of the chapter 11 case are assumed to be re-characterized as principal payments upon conversion of the case to chapter 7, which will reduce the claim amount.

Note E – Administrative and Priority Claims

Non ESA UD Debtors:

These claims include chapter 11 professionals fees in excess of the carveout, and post-petition corporate overhead and administrative related accrued claims estimates that would not be conveyed to the purchasers of the various hotel properties as part of a going concern sale. Administrative and priority claims are entitled to recovery before unsecured claims.

ESA UD Debtors:

There are no administrative and priority claims estimated for the ESA UD Debtors.

Note F – Unsecured Claims

Non ESA UD Debtors:

These claims reflect the estimated amounts of pre-petition liabilities and include notes payable to affiliates. Additionally, for purposes of this analysis, the balance sheet has been adjusted to remove a \$11 million deferred income tax liability that is not subject to settlement in cash or any other consideration with any tax assessing authority.

ESA UD Debtors:

There are no unsecured Claims estimated for the ESA UD Debtors.

Exhibit E

Debtors' Prepetition Organizational Chart

LEGEND

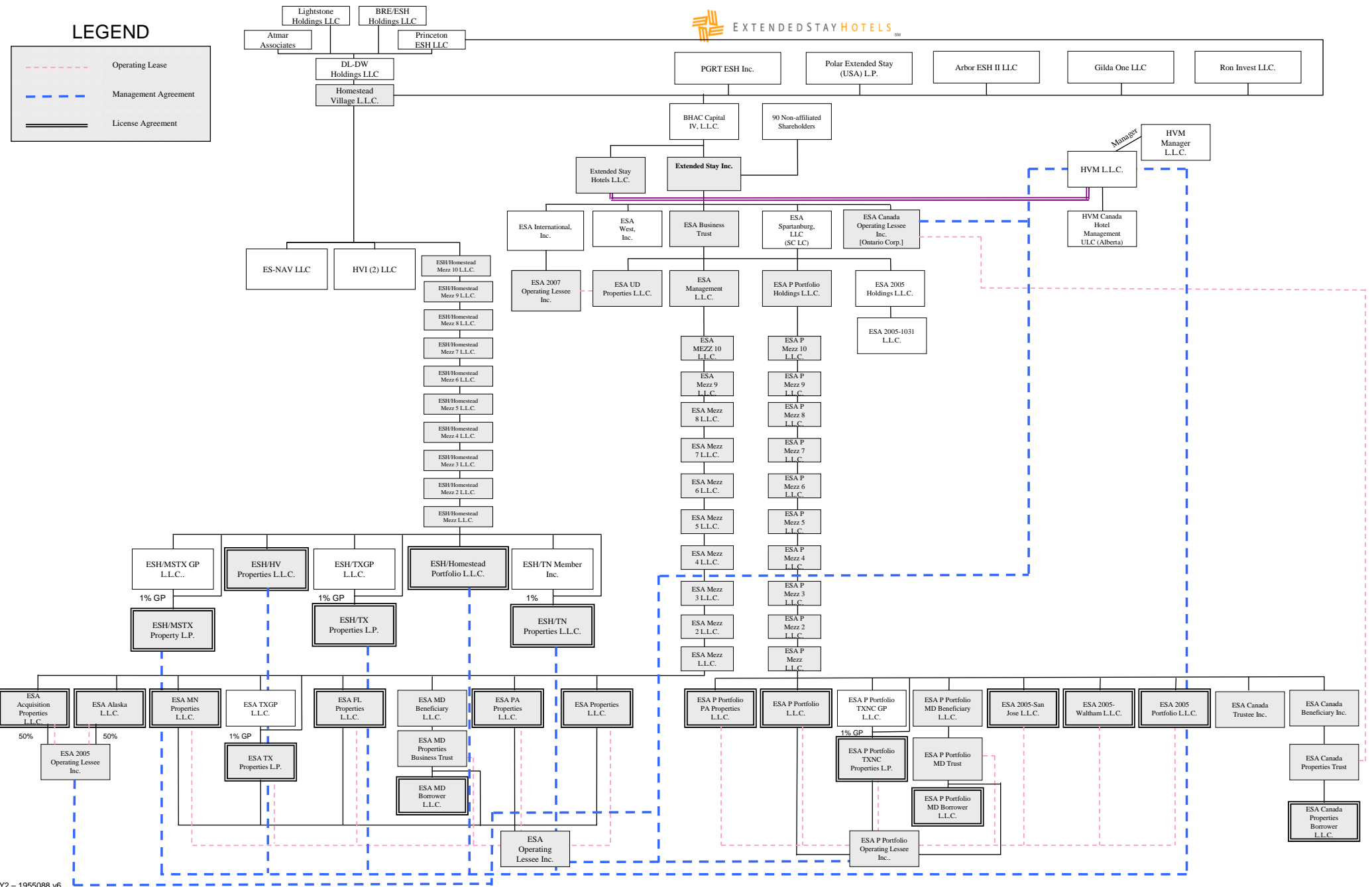
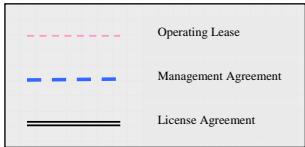


Exhibit F

Historical Financial Information

EXHIBIT F

NewCo ***Unaudited Historical Financials***

All historical financial information incorporated herein is unaudited and reflects only the Debtor and non-Debtor entities that are included in the Plan of Reorganization and will comprise NewCo. These entities include HVM, which is consolidated from a financial point of view, given that HVM conducts substantially all of its business with the Debtors and NewCo's ownership of the managing member of HVM. For additional commentary, the historical financial information should be read in conjunction with the audited and unaudited historical financial statements of DL-DW. However, since the DL-DW financial statements include entities not included in the Plan, the historical financial information incorporated herein and the DL-DW financial statements do not reconcile.

NEWCO
UNAUDITED HISTORICAL CONSOLIDATED BALANCE SHEETS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Historical Consolidated Balance Sheet		
	December 31,	
	2008	2009
Assets		
Current Assets		
Cash and cash equivalents, unrestricted	\$66.6	\$78.0
Restricted cash	11.7	-
Accounts receivable, net of allowance for doubtful accounts	19.4	12.5
Other current assets ^(b)	27.1	28.6
Due from HVI(2) LLC and ES-NAV LLC	0.5	0.5
Due from DL-DW Holdings LLC	30.0	20.2
Due from TLG Hotel Acquisitions LLC	-	0.0
Total current assets	<u>155.1</u>	<u>139.9</u>
Property and equipment, net of accumulated depreciation	6,706.4	6,344.9
Land available for sale	2.0	1.1
Deferred financing costs, net of accumulated amortization	26.4	15.5
License of trademarks, net of accumulated amortization	10.4	8.5
Under market trademark licenses, net of accumulated amortization	14.4	11.8
Other intangible assets, net of accumulated amortization	18.1	16.9
Other assets	3.0	7.7
Total assets	<u>\$6,935.8</u>	<u>\$6,546.3</u>
Liabilities and Shareholders' Equity		
Current liabilities		
Accounts payable and other accrued expenses	\$58.7	\$57.2
Accrued real estate taxes	23.6	25.8
Accrued interest payable	10.7	10.2
Accrued professional fees	0.9	9.5
Deferred revenue	3.7	9.0
Advance from insider	7.9	7.9
Notes payable to Extended Stay, Inc.	-	13.7
Due to BHAC Capital IV L.L.C.	1.4	1.3
Due to TLG Hotel Acquisitions LLC	0.7	-
Mortgages payable	4,108.3	4,108.3
Total current liabilities	<u>4,216.0</u>	<u>4,243.0</u>
Notes payable to Extended Stay, Inc.	14.7	-
Capital lease obligation	0.1	0.1
Deferred income tax liability - noncurrent	-	10.9
Other liabilities	5.3	5.4
Total liabilities	<u>\$4,236.1</u>	<u>\$4,259.5</u>
Members' equity/(deficit)		
Additional Paid in Capital	3,839.4	3,839.4
Retained earnings	(1,139.7)	(1,552.6)
Total members' equity/(deficit)	<u>\$2,699.7</u>	<u>\$2,286.8</u>
Total liabilities and members' equity/(deficit)	<u>\$6,935.8</u>	<u>\$6,546.3</u>

THE UNAUDITED HISTORICAL FINANCIALS SHOULD BE READ IN CONJUNCTION WITH THE UNAUDITED AND AUDITED HISTORICAL FINANCIAL STATEMENTS OF DL-DW HOLDINGS LLC. THE UNAUDITED HISTORICAL FINANCIALS PRESENTED HEREIN REPRESENT HISTORICAL PERSPECTIVE OF THE DEBTOR AND NON-DEBTOR ENTITIES THAT ARE INCLUDED IN THE PLAN OF REORGANIZATION. AS SUCH, THE UNAUDITED HISTORICAL FINANCIALS DO NOT REFLECT THE HISTORICAL FINANCIALS OF DL-DW HOLDINGS LLC.

NEWCO
UNAUDITED HISTORICAL CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Historical Consolidated Statement of Operations		
	Fiscal Year Ended December 31,	
	2008	2009
Revenues		
Rooms revenue, excluding LTL	\$983.7	\$775.0
Other (net of expenses)	17.9	16.7
Total Revenues, excluding LTL	<u>\$1,001.6</u>	<u>\$791.7</u>
Operating Expenses, excl. depreciation & amortization		
Property operating expenses, excluding LTL	(444.2)	(424.2)
Corporate overhead ^(b)	(83.3)	(74.1)
Total Operating Expenses, excl. depreciation, amortization & LTL	<u>(\$527.5)</u>	<u>(\$498.4)</u>
Adjusted EBITDA excluding LTL	<u>\$474.1</u>	<u>\$293.4</u>
Incremental LTL EBITDA ^(c)	-	14.5
Adjusted EBITDA including LTL	<u>\$474.1</u>	<u>\$307.9</u>
Loss on disposition of property & equipment	(1.8)	(0.5)
Impairment - trademark licenses	(6.9)	(3.0)
Impairment - long lived assets	(20.6)	(21.8)
Impairment - goodwill	(346.3)	-
Impairment - corporate customer relationships	(120.6)	-
Depreciation & amortization	(387.8)	(375.4)
Operating Income/(Loss)	<u>(\$410.0)</u>	<u>(\$92.7)</u>
Interest expense	(256.1)	(226.6)
Loss on investments in debt securities and interest rate caps	(0.1)	(0.5)
Interest income	1.5	0.3
Tax expense - current	-	(0.7)
Tax expense - deferred	-	(10.9)
Reorganization Items		
Professional fees - pre petition	(2.7)	(7.2)
Professional fees - post petition	-	(18.4)
Professional fees - post petition - year end GAAP accrual estimate	-	(2.9)
U.S. Trustee quarterly fees	-	(0.3)
Total reorganization items	<u>(\$2.7)</u>	<u>(\$28.8)</u>
Net Income/(Loss)	<u>(\$667.4)</u>	<u>(\$360.0)</u>

THE UNAUDITED HISTORICAL FINANCIALS SHOULD BE READ IN CONJUNCTION WITH THE UNAUDITED AND AUDITED HISTORICAL FINANCIAL STATEMENTS OF DL-DW HOLDINGS LLC. THE UNAUDITED HISTORICAL FINANCIALS PRESENTED HEREIN REPRESENT HISTORICAL PERSPECTIVE OF THE DEBTOR AND NON-DEBTOR ENTITIES THAT ARE INCLUDED IN THE PLAN OF REORGANIZATION. AS SUCH, THE UNAUDITED HISTORICAL FINANCIALS DO NOT REFLECT THE HISTORICAL FINANCIALS OF DL-DW HOLDINGS LLC.

NEWCO
UNAUDITED HISTORICAL CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Millions)

(Amounts may not add to totals due to rounding)

NewCo Historical Consolidated Statement of Cash Flows		
	Fiscal Year Ended December 31,	
	2008	2009
Operating Activities		
Net Income/(Loss)	(\$667.4)	(\$360.0)
Adjustments to reconcile net loss to operating cash		
Depreciation	387.8	375.4
Impairment of long lived assets	20.6	21.8
Impairment of trademark licenses	6.9	3.0
Impairment of intangible assets	120.6	-
Impairment of goodwill	346.3	-
Amortization of deferred financing costs	16.5	10.9
Loss on interest rate caps	0.1	0.5
Loss on disposals of property and equipment	1.8	0.5
Deferred income taxes	-	10.9
Change in net working capital	22.4	27.5
Net cash provided by (used in) operating activities	<u>\$255.7</u>	<u>\$90.5</u>
Investing Activities		
Capital expenditures	(57.6)	(32.6)
Increase/(decrease) in restricted and other cash	27.6	(14.8)
Change in net other non-current assets	1.8	(4.7)
Net cash provided by (used in) investing activities	<u>(\$28.1)</u>	<u>(\$52.1)</u>
Financing Activities		
Purchase of interest rate cap agreements	-	(0.5)
Distributions to parent entities	(222.2)	(51.0)
Distributions - HVM L.L.C.	(4.3)	(1.9)
Proceeds from loans	8.5	-
Principal payments on loans	(0.2)	-
Financing costs	(0.3)	-
Net cash used in financing activities	<u>(\$218.4)</u>	<u>(\$53.4)</u>
Net increase/(decrease) in cash and cash equivalents	\$9.2	(\$15.0)
Beginning cash and cash equivalents	11.2	20.3
Ending cash and equivalents	<u>\$20.3</u>	<u>\$5.4</u>

THE UNAUDITED HISTORICAL FINANCIALS SHOULD BE READ IN CONJUNCTION WITH THE UNAUDITED AND AUDITED HISTORICAL FINANCIAL STATEMENTS OF DL-DW HOLDINGS LLC. THE UNAUDITED HISTORICAL FINANCIALS PRESENTED HEREIN REPRESENT HISTORICAL PERSPECTIVE OF THE DEBTOR AND NON-DEBTOR ENTITIES THAT ARE INCLUDED IN THE PLAN OF REORGANIZATION. AS SUCH, THE UNAUDITED HISTORICAL FINANCIALS DO NOT REFLECT THE HISTORICAL FINANCIALS OF DL-DW HOLDINGS LLC.

NOTES TO NEWCO
UNAUDITED HISTORICAL FINANCIALS

- (a) 2008 excludes \$19K and \$5K of prepaid D&O insurance for Extended Stay Inc. and Homestead Village L.L.C., respectively. 2009 excludes \$413K and \$103K of prepaid D&O insurance for Extended Stay Inc. and Homestead Village L.L.C., respectively.
- (b) 2008 excludes \$217K and \$58K of D&O insurance expense for Extended Stay Inc. and Homestead Village L.L.C., respectively. 2009 excludes \$4.6MM and \$1.1MM of D&O insurance expense for Extended Stay Inc. and Homestead Village L.L.C., respectively.
- (c) In order to bolster demand during the current economic downturn, the Company has pursued a long term lodging (“LTL”) strategy. This strategy focuses on guest stays longer than 60 days. This strategy significantly altered the Company’s length of stay mix in the latter portion of 2009 and is expected to continue through 3Q 2010, as management winds down the program. As of December 2009, LTL guest comprised approximately 27% of available rooms. The Company has calculated an estimate of the incremental EBITDA attributable to this program, based on certain assumptions and given the variance in mix of stay realized versus the imbedded assumption used in the Company’s business plan. As further detailed in NewCo Financial Projections (Exhibit C), NewCo intends to transition back to the historical customer model.

Exhibit G

Debtors' Post-Petition Organizational Chart

TO BE PROVIDED

Exhibit H

Investment and Standby Purchase Agreement

INVESTMENT AND STANDBY PURCHASE AGREEMENT

by and among
Certain affiliates and subsidiaries of EXTENDED STAY INC. listed on Schedule 1
and
HVM MANAGER L.L.C.
and
HVM L.L.C.
and
CENTERBRIDGE PARTNERS, L.P.
and
PAULSON & CO. INC.
each on behalf of certain accounts and funds managed by them
as Investors.

Dated as of March [], 2010

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This INVESTMENT AND STANDBY PURCHASE AGREEMENT (this “Agreement”), dated as of March [], 2010, is by and among certain affiliates and subsidiaries of Extended Stay Inc. listed on Schedule 1 hereto (the “Debtors”), HVM Manager L.L.C. (“HVM Manager”), HVM L.L.C. (“HVM”) and Centerbridge Partners, L.P. and Paulson & Co. Inc., each on behalf of various investment funds and accounts managed by them, or their designees and assigns (each an “Investor” and together, the “Investors”).

RECITALS

WHEREAS, on June 15, 2009, Extended Stay Inc., and certain of its affiliates and subsidiaries commenced jointly administered cases (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”);

WHEREAS, certain of the debtors and debtors in possession who commenced the above mentioned Chapter 11 Cases have proposed and submitted to the Bankruptcy Court for its approval of a restructuring plan (the “Plan”) for the Debtors, an amended draft of which is attached hereto as Exhibit A (the “Draft Plan”) (terms defined in the Draft Plan which are not otherwise defined herein shall be used herein as so defined and certain other terms are defined in Section 25 hereof);

WHEREAS, the Debtors have requested that the Investors participate in the Plan and the Investors are willing to participate in the Plan and commit to invest up to four-hundred fifty million dollars (\$450,000,000) in the reorganized Debtors, on the terms and subject to the conditions contained in this Agreement;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein and for other good and valuable consideration, the parties hereto, intending to be legally bound hereby, agree as follows:

Section 1. Investment.

1.1. Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations, warranties and covenants set forth in this Agreement, on the Effective Date immediately subsequent to the making of the distributions pursuant to the Plan, the Investors shall purchase from a newly formed Delaware limited liability company (“NewCo”), and the Debtors shall cause NewCo to sell and issue to the Investors units of the NewCo common membership interests (the “NewCo Common Interests”) representing 38.22% (subject to adjustment as set forth in the Plan and Sections 1.3 and 3.4 hereof) of the NewCo Common Interests outstanding immediately after the Effective Date of the Plan, in the respective amounts set forth in Schedule 1.1 annexed hereto (the “Investment”). The Investors currently expect to effectuate the Investment through a newly formed Delaware limited liability company, or other type of entity that may be selected by the Investors, whose membership interests will be directly or indirectly held and controlled by the Investors (“InvestorCo”). InvestorCo shall purchase the NewCo Common Interests as provided in this Section 1.1. It is further agreed and understood among the Debtors and the Investors that the Investors may determine in their sole and absolute discretion that NewCo shall have an alternate corporate or organizational structure, form or

identity and the structure of the Rights Offering and Investment Transactions contemplated below shall be changed to the extent necessary to effectuate any such alternate structure, form or identity. Subject to the Investors' right to modify the corporate or organizational structure, form or identity of NewCo as provided in this Section 1.1, NewCo will be the parent company of the reorganized Debtors (and HVM and HVM Manager, only to the extent transferred to NewCo under the Plan) (NewCo, the Debtors, HVM Manager and HVM, collectively, the "Company") from and after the effective date of the Plan (the "Effective Date").

1.2. As consideration for the NewCo Common Interests to be issued pursuant to the Investment, InvestorCo shall (i) pay to NewCo two hundred twenty-five million dollars (\$225,000,000) and (ii) contribute to NewCo the Certificates (as such term is defined in Section 2.2 hereof) held by each of the Investors as set forth in Schedule 1.2a, which Certificates are currently contemplated to be contributed by the Investors to InvestorCo prior to the Expiration Date (as defined in Section 2.4(e)), subject to adjustment as set forth in Section 1.3 hereof (together with the payment specified in clause (i) above, which payment may be adjusted under Section 3.4 hereof, the "Investment Consideration"). Each Investor shall be responsible, on a several basis, to pay or to cause InvestorCo to pay its portion of the consideration set forth on Schedule 1.2. The Investors (or InvestorCo) shall pay the Investment Consideration to the Debtors (a) with respect to the cash portion of the Investment Consideration, by wire transfer of immediately available funds and (b) with respect to the Certificates, by physical delivery of the Certificates or any duly executed transfer documents that are necessary to effect the transfer of InvestorCo's interests under the Certificates to NewCo, in each case on the Effective Date.

1.3. InvestorCo may elect to deliver on the Effective Date more than, less than, or none of, the Certificates beneficially owned by the Investors and reflected on Schedule 1.2a, in which case the amount of NewCo Common Interests purchased by InvestorCo will be increased or reduced by an amount commensurate with the amount of NewCo Common Interests to be issued in respect of the Certificates added or not delivered, based upon the ratio of surrendered Certificates to purchased NewCo Common Interests set forth in Schedule 1.2a.

Section 2. Rights Offering.

2.1. Except as otherwise provided for in the Plan, pursuant to and to be effectuated through the Plan, the Debtors shall effect a rights offering (the "Rights Offering"), pursuant to which the Debtors will offer and cause NewCo to sell NewCo Common Interests.

2.2. The Debtors shall distribute to each holder (each, an "Offering Participant") of certificates (the "Certificates") representing indirect interests in that certain mortgage loan (the "Mortgage Loan"), dated as of June 11, 2007 among Wachovia Bank, National Association, Bear Stearns Commercial Mortgage, Inc., as co-lenders, and the borrowers signatory thereto, in Certificate classes B through M, including, to the extent applicable, the Investors or InvestorCo (to the extent that the Investors have contributed their Certificates to InvestorCo), rights (each, a "Right") to purchase, in the aggregate, NewCo Common Interests representing up to 22.50% (subject to adjustment as set forth in the Plan) of the NewCo Common Interests to be issued on the Effective Date immediately subsequent to the making of the distributions pursuant to the Plan, at an aggregate purchase price of two-hundred twenty five million dollars (\$225,000,000).

2.3. The Rights Offering shall generate proceeds equal to two-hundred twenty five million dollars (\$225,000,000) (the “Rights Offering Proceeds,” and together with the Investment Consideration, the “Committed Proceeds”).

2.4. The Rights Offering shall be conducted as follows:

(a) Concurrently with the mailing of solicitation packages with respect to the Plan (the “Distribution Date”), the Debtors shall distribute the Rights as follows:

- (1) 94.22% of the Rights issued pursuant to the Rights Offering shall be allocated to holders of Certificates in classes B through G.
- (2) 5.78% of the Rights issued pursuant to the Rights Offering shall be allocated to holders of Certificates in classes H through M.
- (3) Holders of Certificates in classes B through G shall each receive a percentage of the Rights equal to the percentage of the NewCo Common Interests to be distributed to each class of Certificates under the Plan. Holders of Certificates in classes H through M shall each receive such percentage of the Rights as set forth in the Plan.
- (4) Each holder of a Certificate shall receive its pro rata share of Rights distributed to its class of Certificates based on its holdings of Certificates in that class, as compared to the aggregate holdings within the class.
- (5) Each holder of Certificates in classes B through G who elects to receive New Unsecured Notes in lieu of NewCo Common Interests shall have its entitlement to the Rights reduced in the manner to be set forth in the Plan.

(b) Each Right shall entitle the holder thereof to purchase one NewCo Common Interest at the Purchase Price.

(c) Each Offering Participant shall be (i) a “qualified institutional buyer” as such term is defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”), (ii) an “accredited investor” as such term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, or (iii) a non-U.S. person purchasing under Regulation S under the Securities Act.

(d) The Debtors shall be responsible for arranging for the distribution of certificates representing the Rights (each, a “Rights Certificate”) by the Trustee and any related materials to each Offering Participant. The Rights Certificates shall provide a place whereby each Offering Participant may indicate its commitment to exercise all or a portion of its Rights.

(e) The Rights may be exercised during a period (the “Rights Exercise Period”) commencing on the Distribution Date and ending five (5) Business Dates after the voting deadline with respect to the Plan, unless such time is extended by the Debtors and the extension is agreed to by the Investors, such agreement not to be unreasonably withheld (as extended, the

“Expiration Date”), and any Rights not subscribed for by the Expiration Date shall constitute unsubscribed rights (the “Unsubscribed Rights”).

(f) Each Offering Participant who wishes to exercise all or a portion of its Rights shall (i) during the Rights Exercise Period, return a duly executed Rights Certificate to a subscription agent reasonably acceptable to the Debtors and the Investors (the “Subscription Agent”) electing to exercise all or a portion of the Rights held by such Offering Participant and (ii) pay an amount equal to the full Purchase Price for the number of NewCo Common Interests that the Offering Participant elects to purchase by wire transfer of immediately available funds on or prior to the Expiration Date, which funds shall be held in an escrow account established for the Rights Offering until the Effective Date.

(g) Each Offering Participant subscribing to the Rights Offering shall, pursuant to its exercise of the Rights, agree to support and not take any action to oppose or delay confirmation and implementation of the Plan.

(h) There shall be no over-subscription rights provided in connection with the Rights Offering.

(i) The Rights shall not be transferable.

(j) The Company may, with the written consent of the Investors, which consent shall not be unreasonably withheld, (a) waive irregularities in the manner of exercise of the Rights, and (b) waive conditions relating to the method (but not the timing) of the exercise of the Rights. Without limiting any other circumstances that could give rise to the Investors’ right to withhold consent to any waiver, the Company acknowledges and agrees that the Investors shall be free to withhold consent to any waiver under (a) or (b) that adversely affects the interests of the Investors.

(k) In the event that the Rights Offering is terminated or otherwise not effectuated pursuant to Section 4.2(b)(ii) of the Plan, all Rights and any exercise of any Right shall be canceled and be null and void and there shall be no obligation to honor any such purported exercise. In such event, the aggregate Purchase Price paid by any Offering Participant shall be refunded to such Offering Participant without payment of interest.

Section 3. Standby Purchase Commitment.

3.1. Within one (1) Business Day of the Expiration Date (the “Notification Date”), the Debtors hereby agree and undertake to give each Investor and their counsel by .pdf format through electronic mail a certification by an executive officer of the Debtors of either (i) in the event that there are Unsubscribed Rights, (w) the number of NewCo Common Interests elected to be purchased by the Offering Participants pursuant to validly exercised Rights, (x) the aggregate Purchase Price thereof, (y) the number of Unsubscribed Rights, and (z) the number of NewCo Common Interests associated with the Unsubscribed Rights and the aggregate Purchase Price (the “Unsubscribed Rights Purchase Price”) thereof (a “Purchase Notice”) or (ii) in the absence of any Unsubscribed Rights, the fact that there are no Unsubscribed Rights and that the commitment set forth in Section 3.2 is terminated (a “Satisfaction Notice”).

3.2. Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations, warranties and covenants set forth in this Agreement, each Investor (or InvestorCo), as to clause (a) below, is hereby given the exclusive right, severally and not jointly, to subscribe for and purchase, and as to clause (b) below, agrees, severally and not jointly, to subscribe for and purchase (or to cause InvestorCo to subscribe for and purchase), in each case, in the respective amounts set forth on Schedule 3.2 attached hereto, and the Debtors agree to cause NewCo to sell and issue:

(a) for the Purchase Price, the full amount of NewCo Common Interests each Investor may purchase pursuant to the exercise of the Rights distributed to such Investor under the Plan (the “Investors Rights”) on account of the Certificates held by each Investor as of the Distribution Date (or, to the extent that (i) Rights have been distributed to InvestorCo on account of the Investors’ Certificates contributed to InvestorCo prior to the Distribution Date or (ii) Investors Rights have been contributed to InvestorCo prior to the Expiration Date, for the Purchase Price, the full amount of NewCo Common Interests InvestorCo may purchase pursuant to the exercise of such Rights); and

(b) for the Purchase Price, the NewCo Common Interests associated with the Unsubscribed Rights as set forth in the Purchase Notice sent to such Investor (the “Standby Purchase Commitment,” and together with the Investment, the “Investment Transactions”).

3.3. The Investors (or InvestorCo) shall pay the Unsubscribed Rights Purchase Price and any unpaid portion of the Purchase Price of the Investors Rights to NewCo by wire transfer of immediately available funds on or before the Effective Date.

3.4. In the event the Rights Offering is terminated or otherwise not effectuated and becomes null and void pursuant to Section 4.2(b)(ii) of the Plan, the Investors’ and InvestorCo’s commitment to purchase the Unsubscribed Rights shall be null and void. In such event, the Investment Transactions shall be effectuated solely through the Investment and the Investors’ (or InvestorCo’s) direct purchase of NewCo Common Interests provided for in Section 1 hereof, such that the Debtors shall cause NewCo to sell and issue to InvestorCo NewCo Common Interests representing 100% of the NewCo Common Interests outstanding after the Effective Date of the Plan in exchange for the Investment Consideration consisting of InvestorCo’s (i) payment of three hundred twenty million dollars (\$320,000,000) and (ii) contribution of the Certificates held by each of the Investors as set forth in Schedule 1.2a (which Certificates are currently contemplated to be contributed to InvestorCo prior to the Expiration Date), which is subject to adjustment as set forth in Section 1.3. Each Investor shall be responsible, on a several basis, to pay or to cause InvestorCo to pay its portion of the consideration set forth on Schedule 1.2.

Section 4. Issuance of the NewCo Common Interests.

4.1. On the Effective Date immediately subsequent to the making of the distributions pursuant to the Plan, the Debtors shall issue or cause NewCo to issue:

(a) to the extent the Rights Offering is effectuated and implemented pursuant to the Plan, to each Offering Participant who validly exercised Rights and paid in full the Purchase Price for the NewCo Common Interests issued in connection with the exercised Rights, the number of NewCo Common Interests to which such Offering Participant is entitled based on the exercise of such Rights;

(b) to the extent the Rights Offering is effectuated and implemented pursuant to the Plan, to each Investor (or InvestorCo), the number of NewCo Common Interests to which each Investor (or InvestorCo) is entitled based on the exercise of the Rights and, to the extent applicable, the Standby Purchase Commitment; and

(c) to each Investor (or InvestorCo), the number of NewCo Common Interests it is entitled to receive based on the Investment.

4.2. All NewCo Common Interests shall be delivered with any and all issue, stamp, transfer, sales and use, or similar taxes or duties payable, if any, in connection with such delivery having been duly paid by the Company.

4.3. Investor Affiliates.

(a) Notwithstanding anything to the contrary in this Agreement, the Investors, in their sole discretion, may designate that some or all of the NewCo Common Interests to be issued to the Investors (or InvestorCo) under the Rights Offering and Investment be issued in the name of, and delivered to, one or more of their managed funds and/or respective affiliates, so long as such issuance and delivery is in compliance with federal and state securities laws and in accordance with Section 4.3(b) herein.

(b) Within 10 days after entry of the order confirming the Plan (the “Confirmation Order”), the Investors shall deliver to the Company a schedule detailing the designations, if any, of the kind described in Section 4.3(a), which designations shall not be assignments for the purposes of Section 19 of this Agreement.

(c) In the event that the Investors make the designation pursuant to this Section 4.3, the funds managed by the Investors and/or the affiliates of the Investors that are so designated shall have the rights, entitlements and benefits that would otherwise inure to the Investors or InvestorCo in their capacity as a holder of the NewCo Common Interests as provided in the Plan.

Section 5. Commitment Payment and Expenses.

5.1. Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations, warranties and covenants set forth in this Agreement, the Investors shall receive from the Company a non-refundable commitment payment equal to twenty-two million five hundred thousand dollars (\$22,500,000) (the “Commitment Payment”), that shall be fully earned upon entry of the Approval Order (as defined in Section 8.1) and is to be paid to the Investors in cash (or equity pursuant to Section 15.7) in the respective amounts set forth on Schedule 5.1; provided, that the Investors shall waive payment of the Commitment Payment upon and subject to the occurrence of the Effective Date and the closing of the Investment and the Rights Offering; provided, further, that the Commitment Payment shall not be payable in the

event this Agreement is terminated by the Company pursuant to Section 15.4(a) or Section 15.4(c), or in the event that the closing conditions set forth in Section 13.1(b), (i) or (p) (but with respect to the closing condition in Section 13.1(p), only if such condition would otherwise be satisfied if the failure of any representations and warranties set forth in Section 6.1(s) hereof to be true and correct was not taken into account) cannot be satisfied.

5.2. Upon entry of the Approval Order and every thirty (30) days thereafter, the Company shall reimburse or pay, as the case may be, all reasonable costs, fees, expenses, disbursements and other charges incurred by each Investor or its affiliates, including, without limitation, fees, costs, expenses, disbursements and other charges of counsel to each of the Investors or its affiliates, and fees, costs, expenses, disbursements and other charges of any other professionals retained by any of the Investors or their respective affiliates in connection with or relating to this Agreement, the Investment, the Rights Offering or the Plan, including, without limitation, in connection with the transactions contemplated hereby (including, without limitation, investigating, negotiating, documenting and completing such transactions and enforcing, attempting to enforce and preserving any rights or remedies contemplated hereunder and by the Chapter 11 Cases), judicial and regulatory proceedings related to such transactions and the Chapter 11 Cases, including, without limitation, the fees and expenses of Fried, Frank, Harris, Shriver & Jacobson LLP and Houlihan, Lokey, Howard & Zukin, Inc. pursuant to its engagement letter with the Investors and Gibson, Dunn & Crutcher LLP, counsel to Paulson & Co. Inc., on behalf of certain investment funds and accounts managed by them (collectively, the “Expenses,” and together with the Commitment Payment, the “Transaction Expenses”); provided, that the Expenses shall not be payable in the event this Agreement is terminated by the Company pursuant to Section 15.4(a) based on upon the Investors’ material breach of this Agreement as determined by a final order of the Bankruptcy Court; provided, further, that if the closing conditions set forth in Sections 13.1(b), (i) or (p) (but with respect to the closing condition in Section 13.1(p), only if such condition would otherwise be satisfied if the failure of any representations and warranties set forth in Section 6.1(s) hereof to be true and correct was not taken into account) cannot be satisfied, or in the event that this Agreement is terminated by the Company pursuant to Section 15.4(c), the maximum amount of the Expenses payable by the Company shall be six million dollars (\$6,000,000).

5.3. If the Investors do not waive the payment of the Commitment Payment as provided in Section 5.1, any Expenses exceeding five million dollars (\$5,000,000) paid by the Company shall be credited against the Commitment Payment until the Commitment Payment is reduced to zero and thereafter, the Company shall have no obligation to pay or reimburse any additional Expenses, provided, however, that for purposes of this Section 5.3 only, all fees and expenses incurred by the Investors and their advisors in connection with any litigation relating to this Agreement, the Investment, the Rights Offering, or the Plan shall be excluded from the calculation of Expenses and shall be paid or reimbursed by the Company at all times in accordance with Section 5.2 above.

5.4. The provision for the payment of the Transaction Expenses is an integral part of the transactions contemplated by this Agreement and without this provision the Investors would not have entered into this Agreement and such Transaction Expenses, subject to the entry of the Approval Order, shall constitute an allowed administrative expense of the Debtors under Section 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

5.5. Except as provided in Section 24.4, the payment of the Transaction Expenses pursuant to Section 15.7 shall be the sole and exclusive remedy available to the Investors in the event that the Closing does not occur, provided, that this Section 5.5 shall not relieve the Company from any Liability arising from (a) other than the exercise of its rights under Section 15.4, any willful or intentional breach that has been the cause of or resulted in the failure of the Closing to occur; or (b) obligations of the Company arising under Section 16.

Section 6. Representations and Warranties of the Debtors, HVM Manager and HVM.

6.1. The Debtors hereby jointly and severally represent and warrant to, and agree with, each Investor (solely as to the Debtors), and HVM Manager hereby severally and not jointly represents and warrants to, and agrees (solely with respect to itself), and HVM hereby severally and not jointly represents and warrants to, and agrees (solely with respect to itself), with each Investor, that, except as set forth in the Disclosure Schedules:

(a) Organization and Qualification. Each Company is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization and has all requisite corporate or other organizational power and authority to carry on its business as it is currently conducted or as currently contemplated to be conducted after consummation of the transactions contemplated hereunder and under the Plan and to own, lease and operate its properties where such properties are now owned, leased or operated. Each of HVM Manager and HVM is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the conduct of its respective business makes such qualification necessary, except where the failure to be so qualified would not be reasonably likely to result in a Material Adverse Change.

(b) NewCo. NewCo will be a newly formed entity and, prior to the Effective Date, NewCo will not have engaged in any business and will not have owned or controlled any assets.

(c) Corporate Power and Authority.

(1) The Company has or, to the extent executed in the future, shall have when executed the requisite corporate or other organizational power and authority to enter into, execute and deliver this Agreement and each other agreement to which it shall be a party as contemplated by this Agreement or the Plan (together, the “Transaction Agreements”) and, subject to entry of the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), respectively, to perform its obligations hereunder and thereunder, including, without limitation, as to NewCo, the issuance of the Rights and the NewCo Common Interests. The Company has taken or shall take all necessary corporate or other organizational action required for the due authorization, execution, delivery and performance by it of the Transaction Agreements, including, without limitation, as to NewCo, the issuance of the Rights and the NewCo Common Interests.

- (2) Prior to the execution by the Debtors and filing with the Bankruptcy Court of the Plan, the Debtors shall have the requisite corporate or other organizational power and authority to execute the Plan and to file the Plan with the Bankruptcy Court and, subject to entry of the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Bankruptcy Rule 3020(e), to perform its obligations thereunder, and shall have taken by the Effective Date all necessary corporate or other organizational actions required for the due authorization, execution, delivery and performance by it of the Plan.

(d) Execution and Delivery; Enforceability.

- (1) Each Transaction Agreement has been, or prior to its execution and delivery shall be, duly and validly executed and delivered by each Company to the extent a party thereto, and, upon the entry of the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Bankruptcy Rule 6004(h), each such document shall constitute a valid and binding obligation of the Company, enforceable against the Company to the extent a party thereto in accordance with its terms.
- (2) The Plan shall be duly and validly filed with the Bankruptcy Court by the Debtors and, upon the entry of the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Bankruptcy Rule 3020(e), shall constitute a valid and binding obligation of the Debtors, enforceable against the Debtors in accordance with its terms.
- (3) All of the NewCo Common Interests shall have been duly authorized for issuance prior to the Effective Date, and, when issued and distributed as set forth in the Plan and this Agreement, shall be validly issued, fully paid and non-assessable and free and clear of all taxes, liens, preemptive rights, rights of first refusal, subscription and similar rights; and none of the NewCo Common Interests shall have been issued in violation of the preemptive rights of any security holders of NewCo arising as a matter of law or under or pursuant to NewCo's Certificate of Formation, Operating Agreement or any other material agreement or instrument to which the Company or NewCo is a party or by which it is bound;

(e) No Conflict. Subject to the entry of the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Bankruptcy Rules 6004(h) and 3020(e), as applicable, the distribution of the Rights, the sale, issuance and delivery of the NewCo Common Interests upon exercise of the Rights, the consummation of the Rights Offering by the Debtors, the sale, issuance and delivery of the NewCo Common Interests to the Investors (or InvestorCo) pursuant to the Investment and the execution and delivery (or, with respect to the Plan, the filing) by the Company of the Transaction Agreements and the Plan and compliance by the Company with all of the provisions hereof and thereof and the consummation of the

transactions contemplated herein and therein (including, without limitation, compliance by each Investor with its obligations hereunder and thereunder) (i) shall not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute a default under (with or without notice or lapse of time, or both), or result, except to the extent to be specified in the Plan, in the acceleration of, or the creation of any lien under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company is a party or by which the Company is bound or to which any of the property or assets of the Company is subject, (ii) shall not result in any violation of the provisions of the certificate of incorporation or bylaws or similar governance documents of the Company, and (iii) shall not result in any violation of, or any termination or impairment of any rights under, any statute or any license, authorization, injunction, judgment, order, decree, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its properties.

(f) Consents and Approvals. No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body having jurisdiction over the Company or any of its properties is required for the distribution of the Rights, the sale, issuance and delivery of the NewCo Common Interests upon exercise of the Rights, the sale, issuance and delivery of the NewCo Common Interests to the Investors (or InvestorCo) pursuant to the Investment and the consummation of the Rights Offering and the Investment by the Company and the execution and delivery by the Company of the Transaction Agreements or the Plan and performance of and compliance by the Company with all of the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein, except (i) the entry of the Approval Order and the Confirmation Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in Bankruptcy Rules 6004(h) and 3020(e), as applicable, (ii) the filing with the Secretary of State of the State of Delaware of the Certificate of Formation to be applicable to NewCo from and after the Effective Date and (iii) any notification or filing required under the HSR Act. No consent, approval or authorization of any Person (other than a court or governmental agency) is required in connection with the execution and delivery of the Transaction Agreements or the consummation by the Company of the transactions contemplated herein and therein.

(g) Arm's Length. The Company acknowledges and agrees that the Investors are acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the transactions contemplated hereby (including, without limitation, in connection with determining the terms of the Rights Offering, the Standby Purchase Commitment and the Investment) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other Person or entity, other than investment funds and accounts managed by them. Additionally, the Investors are not advising the Company or any other Person or entity as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with their own advisors concerning such matters and shall be responsible for making their own independent investigation and appraisal of the transactions contemplated hereby, and the Investors shall have no responsibility or Liability to the Company or its respective shareholders, directors, officers, employees, advisors or other representatives with respect thereto. Any review by the Investors of the Company, the transactions contemplated hereby or other matters relating to such transactions shall be performed solely for the benefit of the Investors and shall not be on behalf of the Company, its affiliates, or their respective shareholders, directors, officers, employees, advisors or other representatives and shall not affect

any of the representations or warranties contained herein or the remedies of the Investors with respect thereto.

(h) No Undisclosed Liabilities. Except for Liabilities incurred in the ordinary course of business as to HVM Manager, HVM or the Debtors, in each case since September 30, 2009, the Company does not have any material Liabilities, whether individually or in the aggregate, whether absolute, accrued, contingent or otherwise, of a type required to be disclosed on a balance sheet prepared in accordance with GAAP, or any material off balance sheet Liabilities, except as set forth in (i) the schedules of assets and liabilities and statements of financial affairs filed by the Debtors with the Bankruptcy Court on September 28, 2009, (ii) the Debtors' monthly operating report filed with the Bankruptcy Court on February 16, 2010, (iii) the Disclosure Statement (as defined and described in Section 8.2 hereof), (iv) the Financial Statements, (v) Schedule 6.1(h), or (vi) the HVM Financial Statements.

(i) Absence of Certain Changes. Except as set forth on Schedule 6.1(i), since September 30, 2009, except for actions to be taken pursuant to the Transaction Agreements and the Plan:

- (1) there has not been any material change in the capital stock or any material change in long-term debt of the Company or any material dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock;
- (2) no event, fact or circumstance has occurred which has had or would reasonably be expected to give rise to, individually or in the aggregate, a Material Adverse Change;
- (3) the Company has not entered into any contract, agreement or arrangement that will be in effect on the Effective Date and that (i) has, or that the Company reasonably expects to have, any future Liability or payments in excess of five million dollars (\$5,000,000), (ii) is not terminable by the Company by notice of not more than ninety (90) days for a cost of less than one hundred thousand dollars (\$100,000), and (iii) was not entered into in the ordinary course of business.
- (4) the Company has not made any material changes with respect to accounting policies or procedures, except as required by law or changes in GAAP;
- (5) the Company has not paid, discharged, waived, compromised, settled or otherwise satisfied any material legal proceeding, whether now pending or hereafter brought, (A) at a cost materially in excess of the amount accrued or reserved for it, (B) pursuant to terms that impose material adverse restrictions on the business of the Company as currently conducted or (C) on a basis that reveals a finding or an admission of a material violation of law by the Company;

- (6) other than in the ordinary course of business, the Company has not (A) made, changed or revoked any material tax election, (B) entered into any settlement or compromise of any material tax Liability, (C) except as otherwise provided in Schedule 6.1(i)(6)(C), filed any amended tax return with respect to any material tax, (D) changed any annual tax accounting period, (E) entered into any closing agreement relating to any material tax, (F) knowingly failed to claim a material tax refund for which it is entitled, or (G) made material changes to their tax accounting methods or principles;
- (7) the Company has not amended its organizational documents;
- (8) the Company has not waived any material right, claim or debt; and
- (9) the Company has not created any mortgage, pledge or lien with respect to any portion of its assets, other than in the ordinary course of business and relating to assets and obligations, in the aggregate, not in excess of ten million dollars (\$10,000,000).

(j) Investment Company Act. As of the date hereof, the Company is not and, after giving effect to the consummation of the Plan, including, without limitation, the offering and sale of the NewCo Common Interests upon exercise of Rights under the Plan and through the Investment, and the application of the proceeds thereof, shall not be required to register as an “investment company” or an entity “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Securities and Exchange Commission thereunder.

(k) Material Contracts.

- (1) Except as otherwise provided herein and subject to the payment of any required cure costs as set forth on Schedule 6.1(k), on and as of the Effective Date, each Material Contract that shall survive the Chapter 11 Cases (i) shall be a legal, valid and binding obligation of the Company, to the extent a party thereto, and each other party thereto (subject to bankruptcy laws), (ii) to the knowledge of the Company, shall be in full force and effect and (iii) shall be enforceable against the Company, to the extent a party thereto, and each other party thereto (subject to bankruptcy laws) in accordance with its terms. Other than a breach or default that occurred as a result of the filing of the Chapter 11 Cases, with respect to each Material Contract, (x) the Company, to the extent a party thereto, is not in material default or breach of such Material Contract, and (y) there does not exist any event, condition or omission that would constitute such a default or breach, whether by lapse of time or notice or both. To the knowledge of the Company, no party to any Material Contract is in material breach or default of such Material Contract, has repudiated any material provision thereof or terminated any Material Contract.

- (2) Except as otherwise provided herein, the transfer of HVM to NewCo, the transfer of HVM Manager to NewCo or the appointment of NewCo Manager or its designee as successor manager of HVM shall not cause a breach, default, cancellation or termination of, or give rise to a right to cancel or terminate, any Material Contract to which HVM Manager or HVM is a party.

(1) Pending Litigations or Causes of Action. There is no action, suit, proceeding or investigation pending or, to the knowledge of the Company, threatened or affecting the Company or any of the properties, assets or businesses of the Company, which, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Change or which questions the validity of the sale of the NewCo Common Interests in accordance with this Agreement or any other action taken or to be taken by the Company pursuant to or in connection with this Agreement, other than the investigation of Ralph R. Mabey, Esq., as duly appointed examiner in the Chapter 11 Cases.

(m) Labor Relations.

- (1) The Company is not party to, or bound by, any material collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization;
- (2) the Company is not the subject of any material proceeding asserting that it or any Subsidiary has committed an unfair labor practice or sex, age, race or other discrimination or seeking to compel it to bargain with any labor organization as to wages or conditions of employment;
- (3) there are no material current or, to the knowledge of the Company, threatened organizational activities or demands for recognition by a labor organization seeking to represent employees of the Company or any and no such activities have occurred during the past 12 months;
- (4) no material grievance, arbitration, litigation or complaint or, to the knowledge of the Company, investigations relating to labor or employment matters is pending or, to the knowledge of the Company, threatened against the Company;
- (5) the Company has complied and is in compliance in all material respects with all applicable laws (domestic and foreign), agreements, contracts, and policies relating to employment, employment practices, wages, hours, and terms and conditions of employment and is not engaged in any material unfair labor practice as determined by the National Labor Relations Board (or any foreign equivalent);
- (6) the Company has complied in all material respects with its payment obligations to all employees of the Company in respect of all wages, salaries, commissions, bonuses, benefits and other compensation due and

payable to such employees under any agreement, plan, program or any statute or other law; and

- (7) the Company has complied and is in compliance in all material respects with its obligations pursuant to the Worker Adjustment and Retraining Notification Act of 1988 (and any similar state or local law) to the extent applicable, and all material other employee notification and bargaining obligations arising under any collective bargaining agreement or statute.

(n) Title to Intellectual Property. The Company owns, or possesses valid and enforceable rights to use, all material Intellectual Property, including, without limitation, that which is set forth on Schedule 6.1(n), used in the conduct of their respective businesses as of the date of this Agreement (collectively, "Company Intellectual Property"). All applications to register and registrations of any Company Intellectual Property owned by the Company (i) are valid and in full force and effect; (ii) have not, except in accordance with the ordinary course practices of the Company lapsed, expired or been abandoned (subject to the vulnerability of a registration for trademarks to cancellation for lack of use); and (iii) are not the subject of any opposition or cancellation filed with the United States Patent and Trademark Office or any other applicable Intellectual Property registry. The consummation of the transactions contemplated hereby and by the Plan, including, without limitation, the transfer of the Company Intellectual Property to NewCo, shall not result in the loss or impairment of any rights to use such Company Intellectual Property or obligate the Company to pay any royalties or other amounts to any third party in excess of the amounts that would have been payable by the Company absent the consummation of the transactions contemplated hereby and by the Plan. The Company has taken reasonable security measures to protect the confidentiality and value of its trade secrets (or other Company Intellectual Property for which the value is dependent upon its confidentiality), and, to the knowledge of the Company, no such information has been misappropriated or is the subject of an unauthorized disclosure. The Company has not received any written notice in the past two (2) years that it is in default (or with the giving of notice or lapse of time or both, would be in default) under any contract relating to any Company Intellectual Property. To the knowledge of the Company, no Company Intellectual Property rights owned by the Company are being infringed by any other Person. To the knowledge of the Company, the conduct of the business of the Company as conducted does not infringe, misappropriate, or otherwise violate in any respect any Intellectual Property rights of others. The Company has not received any written notice of any claim of infringement, misappropriation, or violation with any such rights of others in the past thirty (30) months.

(o) Intellectual Property of BHAC and Homestead. To the knowledge of the Company, each of BHAC and Homestead individually or collectively owns, or possesses valid and enforceable rights to use, all material Intellectual Property, including, without limitation, that which is set forth on Schedule 6.1(n), used in the conduct of their respective businesses as of the date of this Agreement (the "BHAC/Homestead Intellectual Property"). To the knowledge of the Company, all applications to register and registrations of any BHAC/Homestead Intellectual Property owned by BHAC and/or Homestead are (i) valid and in full force and effect; (ii) have not, except in accordance with the ordinary course practices of BHAC and Homestead, collectively, lapsed, expired or been abandoned (subject to the vulnerability of a registration for trademarks to cancellation for lack of use); and (iii) are not the subject of any opposition or

cancellation filed with the United States Patent and Trademark Office or any other applicable Intellectual Property registry. To the knowledge of the Company, the consummation of the transactions contemplated hereby and by the Plan, including, without limitation, the transfer of the BHAC/Homestead Intellectual Property to NewCo, shall not result in the loss or impairment of any rights to use such BHAC/Homestead Intellectual Property or obligate either BHAC or Homestead to pay any royalties or other amounts to any third party in excess of the amounts that would have been payable by BHAC or Homestead absent the consummation of the transactions contemplated hereby and by the Plan. To the knowledge of the Company, BHAC and Homestead have taken reasonable security measures to protect the confidentiality and value of its and their trade secrets (or other BHAC/Homestead Intellectual Property for which the value is dependent upon its confidentiality), and, no such information has been misappropriated or is the subject of an unauthorized disclosure. To the knowledge of the Company, neither BHAC nor Homestead has received any written notice in the past two (2) years that they are in default (or with the giving of notice or lapse of time or both, would be in default) under any contract relating to any BHAC/Homestead Intellectual Property. To the knowledge of Company, no BHAC/Homestead Intellectual Property rights owned by BHAC and/or Homestead are being infringed by any other Person. To the knowledge of Company, the conduct of the businesses of BHAC and Homestead as conducted does not infringe, misappropriate, or otherwise violate in any material respect any Intellectual Property rights of others, and neither BHAC nor Homestead has received any written notice of any claim of infringement, misappropriation, or violation with any such rights of others in the past thirty (30) months.

(p) No Broker's Fees. Neither the Company nor any of its Subsidiaries is a party to any contract, agreement or understanding with any Person (other than this Agreement and the Company's agreement with Lazard Frères & Co. LLC, as approved by the Bankruptcy Court on July 23, 2009) that would give rise to a valid claim against the Company or any of its Subsidiaries or the Investors for a brokerage commission, finder's fee or like payment in connection with the Investment and Rights Offering.

(q) Title to Real and Personal Property. Schedule 6.1(q) contains a true, accurate and complete list of the addresses of all (i) real property owned by the Company as of the Effective Date (the "Owned Real Property"), and (ii) real property leased by the Company as of the Effective Date (the "Real Property Leases"). Except as provided on Schedule 6.1(q), the Company has good and marketable title to the Owned Real Property and good title to all other tangible and intangible properties owned by it, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind, other than the Mortgage Loan and the Permitted Encumbrances (as such term is defined in the loan agreement evidencing the Mortgage Loan). All of the Real Property Leases are in full force and effect and enforceable by the Company in accordance with their terms and no material default exists under any of the Real Property Leases. The Company has not received any notice of any claim of any sort that has been asserted by anyone adverse to the rights of the Company under any of the Real Property Leases, or affecting or questioning the rights of the Company to the continued possession of the leased or subleased property by under any such lease or sublease. None of the buildings and structures situated on or forming part of the Owned Real Property or the operation or maintenance thereof, encroaches on any property owned by others, and the Owned Real Property and the current uses thereof by the Company complies in all respects with applicable laws. No taking has been commenced or, to the knowledge of the Company, is contemplated

with respect to all or any portion of, or for the relocation of roadways providing access to, any Owned Real Property or any real property subject to the Real Property Leases. The assets of the Company (including the Owned Real Property, the Real Property Leases and other tangible and intangible assets of the Company (other than Intellectual Property), include all of the properties, assets and rights (other than Intellectual Property) that are currently used in, or are material or necessary for, the conduct of the business of the Company as it is currently conducted (the “Business Assets”).

- (r) Compliance with Environmental Laws. Except as provided on Schedule 6.1(r):
- (1) the Company is in compliance with all applicable Environmental Laws, except for such noncompliance as would not reasonably be expected to result in material liabilities under Environmental Laws;
 - (2) except as would not reasonably be expected to result in the Company incurring material liabilities under Environmental Laws, the Company, has (a) received and is in compliance with all permits, licenses or other approvals required of it under applicable Environmental Laws to conduct its business, (b) is not subject to any action to revoke, terminate, cancel, limit, amend or appeal any such permits, licenses or approvals, and (c) has paid all fees, assessments or expenses due under any such permits, licenses or approvals;
 - (3) except as would not reasonably be expected to result in the Company incurring material liabilities under Environmental Laws, there are no pending nor, to the best of the Company’s knowledge, threatened claims, notices, civil, criminal or administrative actions, suits, hearings, investigations, inquiries or proceedings with respect to the Facilities or the Company arising under any Environmental Law; and the Company has not received written notice from any governmental authority or any other third party of any actual or potential unresolved Liability for the investigation or remediation of any disposal or release of Hazardous Substances, or for any actual or alleged violation of Environmental Law;
 - (4) except as would not reasonably be expected to result in the Company incurring material liabilities under Environmental Laws, there is no contamination of, and there have been no releases or threatened releases of Hazardous Substances, at, on, under or within the Facilities or, to the best of the Company’s knowledge, any real property formerly owned, leased or operated by the Company or, any predecessor of the Company’s predecessors;
 - (5) to the best of the Company’s knowledge, there are no facts, circumstances or conditions related to the Facilities or the Company that would be reasonably expected to result in the Company incurring material liabilities under Environmental Laws;

- (6) except as would not reasonably be expected to result in the Company incurring material liabilities under Environmental Laws, the Company has not agreed to assume or accept responsibility for, by contract or otherwise, any Liability of any other Person under Environmental Laws;
 - (7) the Company is not currently required to incur material capital expenditures to reach or maintain compliance with existing Environmental Laws;
 - (8) neither the Company nor any of the Company's predecessors have manufactured, marketed, distributed, or sold asbestos or any products containing asbestos; nor is there any asbestos or asbestos-containing material at the Facilities requiring removal or abatement that would be reasonably likely to result in the Company incurring material liabilities under Environmental Laws; and
 - (9) for purposes of this Section 6.1(r), the following terms shall have the meanings set forth herein: "Environmental Laws" means any law, statute, rule, regulation, ordinance, or legally binding guidance document relating to pollution, contamination, protection of the environment, human health or safety related to exposure to Hazardous Substances or the occupational health or safety of employees, including any common law cause of action, and all applicable judicial and administrative decisions, orders, directives and decrees; "Facilities" means all real property owned, leased, or operated by the Company and any buildings, facilities, fixed structures or equipment located on such real property; "Hazardous Substances" means any substance, material or waste that is regulated, classified, defined or otherwise characterized under or pursuant to Environmental Law as "hazardous," "toxic," "pollutant," "contaminant," "radioactive" or words of similar meaning including petroleum or any by-products or fractions thereof, any form of natural gas, lead, asbestos and asbestos-containing materials, polychlorinated biphenyls ("PCBs") and PCB-containing equipment, toxic mold, radon and other radioactive elements, and urea formaldehyde foam insulation.
- (s) Compliance With ERISA.
- (1) Correct and complete copies of the following documents, with respect to all written material domestic and foreign benefit and compensation plans, programs, contracts, commitments, practices, policies and arrangements, that have been established, maintained or contributed to (or with respect to which an obligation to contribute has been undertaken) or with respect to which any potential Liability is borne by the Company or HVM, including, but not limited to, "employee benefit plans" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and deferred compensation, stock option, stock purchase, restricted stock, stock appreciation rights, stock based, incentive

and bonus plans (the “Company Plans”), have been or shall be delivered or made available to the Investors by the Company and HVM, to the extent applicable: (i) all material Company Plan documents, together with all amendments and attachments thereto (including, in the case of any Company Plan not set forth in writing, a written description thereof); (ii) all material trust documents, declarations of trust and other documents establishing other funding arrangements, and all amendments thereto and the latest financial statements thereof; (iii) the annual reports on IRS Form 5500 for each of the past two years and all schedules thereto and the actuarial reports for each of the past two years; (iv) the most recent IRS determination letter; (v) summary plan descriptions and summaries of material modifications; and (vi) any notice to or from the IRS or any office of representative of the Department of Labor relating to compliance issues with respect to such Company Plans.

- (2) (A) Each Company Plan has been maintained, operated, and administered in compliance in all material respects with its own terms, ERISA, the Internal Revenue Code of 1986, as amended (the “Tax Code”), other applicable laws, and any applicable collective bargaining agreement; (B) each Company Plan that is intended to be a qualified plan under Section 401(a) of the Tax Code has received a favorable determination letter from the IRS covering all Tax law changes through and including the Economic Growth and Tax Relief Reconciliation Act of 2001 or has applied to the IRS for such favorable determination within the applicable remedial amendment period under Section 401(b) of the Tax Code, and the Company and HVM are not aware of any circumstances likely to result in the loss of the qualification of such Company Plan under Section 401(a) of the Tax Code; (C) no material Liability under Title IV of ERISA has been or is reasonably expected to be incurred by the Company or HVM with respect to any “single-employer plan,” within the meaning of Section 4001(a)(15) of ERISA (“Single-Employer Plan”) or “multiemployer plan” within the meaning of Section 3(37) of ERISA (“Multiemployer Plan”) currently or within the past six years maintained or contributed to (or with respect to which an obligation to contribute has been undertaken) by the Company or HVM or any entity which is considered one employer with the Company or HVM under Section 4001 of ERISA or Section 414 of the Tax Code (an “ERISA Affiliate”); (D) neither the Company nor HVM have incurred any withdrawal Liability (including, without limitation, any contingent or secondary withdrawal Liability) with respect to a Multiemployer Plan under Subtitle E of Title IV of ERISA (regardless of whether based on contributions of an ERISA Affiliate) that has not been satisfied in full and no condition or circumstance has existed that presents a risk of the occurrence of any withdrawal from or the partition, termination, reorganization or insolvency of any such Multiemployer Plan; (E) no “reportable event,” within the meaning of Section 4043 of ERISA, for which notice would be required to be filed with the Pension Benefit Guaranty Corporation, has occurred or is expected to occur for any

Company Plan or by any ERISA Affiliate; (F) all contributions required to be made under the terms of any Company Plan have been timely made or accrued for in accordance with GAAP in the financial statements of the Company and HVM as required under the terms of such Company Plan, applicable laws, and any applicable collective bargaining agreement; and (G) there has been no amendment to, announcement by the Company or HVM relating to, or change in employee participation or coverage under, any Company Plan which would materially increase the expense of maintaining such plan above the level of the expense incurred therefor for the most recent fiscal year.

- (3) (A) Neither any Company Plan nor any Single-Employer or Multiemployer Plan of an ERISA Affiliate has an “accumulated funding deficiency” (whether or not waived) within the meaning of Section 412 of the Tax Code or Section 302 of ERISA and neither the Company nor HVM nor any ERISA Affiliate has applied for or obtained a funding waiver; (B) the Company and HVM expect that required minimum contributions to any Company Plan under Section 412 of the Tax Code shall not be materially increased by application of Section 412(l) of the Tax Code; (C) neither the Company nor HVM has provided, or is required to provide, security to any Company Plan or to any Single-Employer or Multiemployer Plan of a ERISA Affiliate pursuant to Section 401(a)(29) of the Tax Code; and (D) neither the execution of this Agreement nor the consummation of the transactions contemplated hereby shall limit or restrict the right of the Company or HVM to merge, amend or terminate any of the Company Plans, all of which can be amended or terminated at any time, without consent from any other party and without material Liability other than for benefits accrued as of the date of such amendment or termination (other than charges incurred as a result of such termination).
- (4) There are no legal proceedings pending or, to the knowledge of the Company or HVM, threatened, on behalf of or against any Company Plan, the assets of any trust under any Company Plan, or the plan sponsor, plan administrator or any fiduciary of any Company Plan. No event has occurred and there currently exists no condition or set of circumstances in connection with which the Company, HVM, or any of their respective Subsidiaries could be subject to any Liability (other than routine claims for benefits, ordinary administrative costs, funding for premiums, and other routine funding obligations) under the terms of any Company Plan, ERISA, the Tax Code or any other applicable law.
- (5) No fiduciary or party in interest of any Company Plan has participated in, engaged in or been a party to any transaction that is prohibited under Section 4975 of the Tax Code or Section 406 of ERISA and not exempt under Section 4975 of the Tax Code or Section 408 of ERISA, respectively, which could result in Liability to the Company. With respect

to any Company Plan, (i) neither the Company nor HVM nor any of their respective ERISA Affiliates has had asserted against it any claim for Taxes under Chapter 43 of Subtitle D of the Tax Code and Section 5000 of the Tax Code, or for penalties under ERISA Section 502(c), 502(i) or 502(l), nor, to the knowledge of the Company or HVM, is there a basis for any such claim, and (ii) no officer, director or employee of the Company, HVM or any of their respective Subsidiaries has committed a breach of any fiduciary responsibility or obligation imposed by Title I of ERISA.

- (6) No Company Plan that is a “welfare benefit plan” within the meaning of Section 3(1) of ERISA provides benefits to former employees of the Company, HVM, or their respective ERISA Affiliates, other than (i) pursuant to Section 4980B of the Code or any similar Law, (ii) continuation of coverage until the end of the calendar month in which retirement occurs, (iii) upon conversion to an individual policy at the retiree’s election and responsibility, or (iv) up to the credit balance as of the retirement date under a medical expense reimbursement account. The Company and HVM and their respective ERISA Affiliates have complied in all material respects with the provisions of Part 6 of Title I of ERISA and Sections 4980B, 9801, 9802, 9811 and 9812 of the Code.
- (7) Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or in conjunction with any other event, (i) result in any payment or benefit becoming due or payable, or required to be provided, to any director, employee or independent contractor of the Company, HVM, or any of their respective Subsidiaries, (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any such director, employee or independent contractor, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefit or compensation or (iv) result in any “excess parachute payment” within the meaning of Section 280G of the Tax Code. The Company and HVM have taken all necessary steps to ensure that the receipt of any compensation, benefit or amounts that may be deemed to result in an “excess parachute payment” (within the meaning of Section 280G(b) of the Tax Code) to each Person who is a “disqualified individual” with respect to the Company, within the meaning of Section 280G(c) of the Tax Code, has been approved by stockholders in accordance with Section 280G(b)(5)(A)(ii) of the Tax Code.
- (8) The Company has no obligation for the payment to any person with respect to any tax liability under Section 409A of the Tax Code.
- (9) The Company has provided to the Investors, by letter dated February 19, 2010 (the “Change in Control Letter”), the correct amount of severance payments that would be payable if payments were due on June 30, 2010 under each of the change in control agreements set forth in Schedule

6.1(s)(7) of the Disclosure Schedules (the “Change in Control Agreements”), and the employment agreement dated July 10, 2007 between HVM and Gary A. DeLapp (the “DeLapp Employment Agreement”), and any other severance policies applicable to those individuals with a Change in Control Agreement and/or employment agreement, in each case, subject to the assumptions set forth in such letter, and has also provided (A) base compensation, target bonus and, if applicable, member allocations, (B) estimated value of COBRA premiums for such individuals, and (C) any possible gross-up payment for Section 409A of the Tax Code. The Company has provided to the Investors an estimated calculation of the aggregate amount that would be payable under the revised HVM Incentive Plan, which was approved by the Bankruptcy Court by orders dated October 29, 2009 and November 12, 2009 (the “HVM Incentive Plan”), assuming that the Company performs at budget, and has also provided, based on and subject to the assumptions set forth therein, the individual amounts payable to each Senior Executive and President/CEO (as set forth in the Change in Control Letter) pursuant to the revised HVM Incentive Plan. No 280G gross-up payments will be due under any of the Change in Control Agreements, the DeLapp Employment Agreement, or in connection with any payments pursuant to the revised HVM Incentive Plan.

(t) Insurance. The Company has insurance covering its properties, operations, personnel and businesses, including, without limitation, business interruption insurance, which insurance is in amounts and insures against such losses and risks as are customary for companies whose businesses are similar to the Company’s. The Company (i) has not received written notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made to continue such insurance or (ii) does not have any reason to believe that it shall not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business.

(u) Alternate Transactions. As of the date hereof, the Company is not party to any binding commitment to pursue, implement or effectuate any Alternate Transaction.

(v) Affiliate Transactions. Except as among any of the debtors in the Chapter 11 Cases, among any of the Debtors and HVM, and as set forth on Schedule 6.1(v), there are no contracts or other transactions between the Company, on the one hand, and any officer, director or affiliate of the Company or any relative or spouse of such person, or any relative of such spouse, who has the same home as such person), on the other hand.

(w) Tax. Except as provided in Schedule 6.1(w), for U.S. federal income tax purposes, each of the Debtors is a disregarded entity that is deemed to be owned by either Extended Stay Inc. or DL-DW Holdings LLC, and each of Extended Stay, Inc. and DL-DW Holdings LLC is an entity that is not a foreign person within the meaning of Treasury Regulation 1.1445-2(b)(2)(i). None of the Debtors otherwise eligible to join Extended Stay Inc. in the filing of a consolidated return for federal income tax purposes has filed an Internal Revenue Service Form 1122 or

otherwise authorized or consented to joining Extended Stay Inc. in the filing of a consolidated return for federal income tax purposes pursuant to Treasury Regulation §1.1502-75(h).

Section 7. Representations and Warranties of the Investors.

7.1. Each Investor represents and warrants as to itself only, and agrees with the Company, severally and not jointly, as set forth below. Each such representation, warranty and agreement is made as of the date hereof and the Effective Date.

(a) Incorporation. Each Investor has been duly organized and, if applicable, is a validly existing as a corporation, limited partnership or limited liability company, in good standing under the laws of the jurisdiction of its incorporation or organization.

(b) Corporate Power and Authority. Each Investor has the requisite corporate, limited partnership or limited liability company power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder and has taken all necessary corporate, limited partnership or limited liability company action required for the due authorization, execution, delivery and performance by it of this Agreement.

(c) Execution and Delivery. This Agreement has been duly and validly executed and delivered by the Investor and constitutes its valid and binding obligation, enforceable against it in accordance with its terms.

(d) Investment Intent. Each Investor is acquiring indirectly the NewCo Common Interests for investment for its own account or for the account of its investment funds and accounts managed by them, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof not in compliance with applicable securities laws, and such Investor has no present intention of selling, granting any participation in, or otherwise distributing the same, except in compliance with applicable securities laws.

(e) Sophistication. Each Investor has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its investment in the NewCo Common Interests being acquired hereunder. Each Investor understands and is able to bear any economic risks associated with such investment (including, without limitation, the necessity of holding the NewCo Common Interests for an indefinite period of time).

(f) Financial Capability. Each Investor has, and each Investor (and InvestorCo to the extent applicable) at the Closing will have, sufficient internal funds available to pay its portion of the Committed Proceeds and any expenses incurred by it in connection with the transactions contemplated by this Agreement.

(g) Accredited Investor Status. Each Investor is (and InvestorCo, to the extent applicable will be) an “accredited investor” as such term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended.

(h) No Conflict. The execution and delivery by the Investors of each of the Transaction Agreements to which it is a party and the compliance by the Investor with all of the provisions hereof and thereof and the consummation of the transactions contemplated herein and

therein by the Investors and InvestorCo (i) shall not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute a default under (with or without notice or lapse of time, or both), or result, in the acceleration of, or the creation of any lien under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Investor is a party or by which any Investor or InvestorCo is bound or to which any of the property or assets of the Investor or any of its Subsidiaries or InvestorCo is subject, (ii) shall not result in any violation of the provisions of the certificate of incorporation or bylaws or similar governance documents of any Investor, and (iii) shall not result in any material violation of, or any termination or material impairment of any rights under, any statute or any license, authorization, injunction, judgment, order, decree, rule or regulation of any court or governmental agency or body having jurisdiction over any Investor or any of their properties, except in any such case described in subclause (i) for any conflict, breach, violation, default, acceleration or lien which has not and would not reasonably be expected, individually or in the aggregate, to prohibit, materially delay or materially and adversely impact the Investor's performance of its obligations under this Agreement.

(i) Consents and Approvals. No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body having jurisdiction over the any Investor or InvestorCo or any of their properties, other than the Bankruptcy Court, is required to be obtained or made by the Investor or InvestorCo for the purchase of the NewCo Common Interests hereunder and the execution and delivery by the Investor of this Agreement or the Transaction Agreements to which it is a party and performance of and compliance by each Investor and InvestorCo with all of the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein, except for any consent, approval, authorization, order, registration or qualification which, if not made or obtained, has not and would not reasonably be expected, individually or in the aggregate, to prohibit, materially delay or materially and adversely impact the Investor's performance of its obligations under this Agreement, except for any notification or other filing requirements under the HSR Act.

(j) Arm's Length. Each Investor acknowledges and agrees that the Company is acting solely in the capacity of an arm's length contractual counterparty to the Investor with respect to the transactions contemplated hereby (including, without limitation, in connection with determining the terms of the Rights Offering and the Investment). Additionally, the Investors are not relying on the Company for any legal, tax, investment, accounting or regulatory advice, except as specifically set forth in this Agreement. Each Investor shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby.

(k) No Violation or Default; Compliance with Laws. No Investor is in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which an Investor is a party or by which an Investor is bound or to which any of the property or assets of an Investor is subject, individually or in the aggregate, that would prohibit, materially delay or materially and adversely impact the Investor's performance of its obligations under this Agreement.

(l) Certificate Ownership. Each of the Investors beneficially owns on the date of this Agreement, on behalf of certain of its investment funds or accounts managed by it, the Certificates as set forth on Schedule 1.2a.

Section 8. Covenants.

From and after the date hereof, until the earlier of the Effective Date or the effective date of any termination pursuant to Section 15 hereof:

8.1. Approval Order. The Debtors shall seek the entry of the order authorizing the Debtors' execution of this Agreement and authorizing and approving the transactions contemplated herein (the "Approval Order"), which order authorizes, without limitation, the payment by the Company of all Transactions Expenses and all other consideration and fees contemplated under this Agreement including, without limitation, Expenses incurred by the Investors and their advisors related thereto, and the indemnification provisions set forth in this Agreement. The Approval Order shall be in form and substance reasonably acceptable to the Investors. The Debtors agree that they shall use best efforts to (i) obtain a waiver of Bankruptcy Rule 6004(h) and request that the Approval Order be effective immediately upon its entry by the Bankruptcy Court, which Approval Order shall not be materially revised, modified, or amended by the Confirmation Order for the Plan or any other further order of this Bankruptcy Court, (ii) fully support the motion seeking approval of the Approval Order, and any application seeking Bankruptcy Court approval and authorization to pay the Transaction Expenses as an administrative expense of the estate, including, but not limited to, filing supporting affidavits on behalf of the Company and/or its financial advisor and providing the testimony of the affiants if needed, (iii) obtain approval of the Approval Order as soon as practicable and (iv) cause the Approval Order to become a final order as soon as practicable.

8.2. Plan and Disclosure Statement. The Debtors shall authorize, execute, file with the Bankruptcy Court and seek confirmation of the Plan and a related disclosure statement (the "Disclosure Statement") (i) the terms of which are consistent in all respects with this Agreement and the Draft Plan and with such other terms that are reasonably satisfactory to the Investors; provided, however, that any changes, modifications or amendments to the Draft Plan must be reasonably acceptable to the Investors, (ii) that provide for the release and exculpation of each Investor, its affiliates, shareholders, partners, directors, officers, employees, attorneys and advisors from Liability for participation in the transactions contemplated by this Agreement and the Plan to the fullest extent permitted under applicable law, (iii) that have conditions to confirmation and the Effective Date (and terms governing to what extent such conditions can be waived and by whom) that are consistent with this Agreement and the Draft Plan and are reasonably satisfactory to the Investors, and (iv) the form and substance of which is reasonably acceptable to the Investors; provided, that the Investors hereby acknowledge that the Draft Plan is acceptable to the Investors. The Debtors shall file a Confirmation Order that is in form and substance reasonably acceptable to the Investors, which order shall provide, among other things, that except as otherwise expressly provided for in the Plan, the properties and assets transferred and dealt with by the Plan shall be free and clear of all claims and interests of any creditor or interest holder, including any claims arising or resulting from or relating to the transactions contemplated hereby and by the Plan and that NewCo and each of the Debtors shall not be a

successor to Extended Stay, Inc. by reason of any theory of law or equity, and shall not have any successor or transferee liability of any kind or character.

8.3. Rights Offering. The Company shall use its commercially reasonable efforts to effectuate the Rights Offering as provided herein, except if otherwise provided for pursuant to the Plan.

8.4. Hearing on Confirmation. The Company shall use its commercially reasonable efforts to have the hearing on confirmation of the Plan scheduled as soon as possible after the Bankruptcy Court enters the order approving the Disclosure Statement.

8.5. Notification.

(a) To the extent the Rights Offering is effectuated and implemented pursuant to the Plan, the Debtors shall notify, or cause the Subscription Agent to notify the Investors, on each Friday during the Rights Exercise Period and on each Business Day during the five Business Days prior to the Expiration Date (and any extensions thereto), or more frequently if requested by any of the Investors, of the aggregate number of Rights known by the Debtors or the Subscription Agent to have been exercised pursuant to the Rights Offering as of the close of business on the preceding Business Day or the most recent practicable time before such request, as the case may be.

(b) To the extent that, pursuant to the Plan, the holders of Certificates in classes B through G are entitled to make the New Unsecured Notes Election (as defined in the Plan), the Debtors shall notify, or cause the Subscription Agent to notify the Investors, on each Friday during the Election Period and on each Business Day during the five Business Days prior to the New Unsecured Notes Election Date (and any extensions thereto), or more frequently if requested by any of the Investors, of the aggregate amount of New Unsecured Notes to be issued pursuant to the New Unsecured Notes Election as of the close of business on the preceding Business Day or the most recent practicable time before such request, as the case may be.

8.6. Unsubscribed Rights. To the extent the Rights Offering is effectuated and implemented pursuant to the Plan, the Debtors shall determine the number of Unsubscribed Rights, if any, in good faith, and shall, pursuant to Section 3.1 of this Agreement, provide to the Investors a Purchase Notice or a Satisfaction Notice that accurately reflects the number of Unsubscribed Rights as so determined and shall provide to the Investors a certification by the Subscription Agent of the Unsubscribed Rights and written backup to the determination of the Unsubscribed Rights as any Investor may reasonably request.

8.7. Conduct of Business. During the period from the date of this Agreement to the Effective Date (except as otherwise expressly provided by the terms of this Agreement, the Plan or any other order of the Bankruptcy Court entered on or prior to the date hereof in the Chapter 11 Cases), the Company shall carry on their businesses in the ordinary course and, to the extent consistent therewith, use their commercially reasonable efforts to preserve intact their current business organizations, keep available the services of their current officers and employees and preserve their relationships with customers, suppliers, licensors, licensees, distributors and others having business dealings with the Company. Without limiting the generality of the foregoing,

and except as otherwise expressly provided or permitted by this Agreement, the Plan or any other order of the Bankruptcy Court entered as of the date hereof in these Chapter 11 Cases, prior to the Effective Date, the Company shall not take any of the following actions without the prior written consent of the Investors, which consent shall not be unreasonably withheld, conditioned or delayed:

- (a) amend or modify its organizational documents;
- (b) (I) declare, set aside or pay any dividends on, or make any other distributions in respect of, any of its capital stock, (II) split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or (III) purchase, redeem or otherwise acquire any shares of capital stock of the Debtors or any other securities thereof or any rights, warrants or options to acquire any such shares or other securities;
- (c) except for intercompany transactions and any financing activities which are consistent with the Company's existing financing, issue, deliver, grant, sell, pledge, dispose of or otherwise encumber any of its capital stock or any securities convertible into, or any rights, warrants or options to acquire, any such capital stock at less than fair market value;
- (d) acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial portion of the stock, or other ownership interests in, or substantial portion of assets of, or by any other manner, any business or any corporation, partnership, association, joint venture, limited liability company or other entity or division thereof except in the ordinary course of business;
- (e) sell, lease, mortgage, pledge, grant a lien, mortgage, pledge, security interest, charge, claim or other encumbrance of any kind or nature on or otherwise encumber or dispose of any of its properties or assets, except in the ordinary course of business consistent with past practice;
- (f) incur any indebtedness for borrowed money or guarantee any such indebtedness of another individual or entity, issue or sell any debt securities or warrants or other rights to acquire any debt securities of the Debtors, guarantee any debt securities of another individual or entity, enter into any "keep well" or other agreement to maintain any financial statement condition of another Person;
- (g) enter into any contract, agreement or arrangement that will be in effect on the Effective Date and that (i) has, or that the Company reasonably expects to have, any future Liability or payments in excess of five million dollars (\$5,000,000), (ii) is not terminable by the Company by notice of not more than ninety (90) days for a cost of less than one hundred thousand dollars (\$100,000), and (iii) was not entered into in the ordinary course of business;
- (h) (i) enter into, adopt, amend or terminate any employee benefit plan, (ii) increase in any manner the compensation or fringe benefits of any director or officer of the Company, except as contemplated by existing agreements, (iii) enter into, renew, for more than six (6) months on existing terms, (other than contracts, agreements, commitments or arrangements that by their terms renew automatically without action by either party) or terminate any contract,

agreement, commitment or arrangement providing for the payment of compensation or benefits to any director or officer of the Company, or (iv) terminate the employment of or hire any officer (other than to fill vacancies, with the consent of the Investors not to be unreasonably withheld) or director of the Company (other than termination for cause);

(i) make any changes to existing accounting policies or adopt new accounting policies unless required by law or changes in GAAP;

(j) (i) make, change or revoke any material tax election, (ii) enter into any settlement or compromise of any material tax Liability, (iii) except as otherwise provided in Schedule 8.7(j)(iii) with respect to a material tax refund, file any amended tax return with respect to any material tax, (iv) change any annual tax accounting period, (v) enter into any closing agreement relating to any material tax, (vi) knowingly fail to claim a material tax refund for which it is entitled, or (vii) make material changes to their tax accounting methods or principles;

(k) sell, assign, exclusively license, abandon or otherwise dispose of: (i) any registered Company Intellectual Property; (ii) any material unregistered trademark, service mark, trade name or domain name that is Company Intellectual Property; or (iii) except in the ordinary course of business, any Company Intellectual Property other than that which is set forth in (i) or (ii) above;

(l) authorize any of, or commit or agree to take any of, the foregoing actions; and

(m) file an Internal Revenue Service Form 1122 or otherwise authorize or consent to joining Extended Stay Inc. in the filing of a consolidated return for federal income tax purposes pursuant to Treasury Regulation §1.1502-75(h).

8.8. Further Assurances. After the entry of the Confirmation Order, each party shall, at the request of any other party hereto and without further conditions or consideration, take such other actions as such other party may reasonably request in order to more effectively consummate the transactions contemplated hereby and in accordance with and subject to the terms and conditions of this Agreement and the Transaction Agreements, including, using commercially reasonable efforts to cause the satisfaction of all conditions to the Closing and the Effective Date to occur. Without limiting the generality of the foregoing, the Company shall, and shall cause its officers, employees, agents and representatives to, use commercially reasonable efforts to obtain any third party consents as shall be required to be obtained in connection with the consummation of the transactions contemplated hereby and by the Plan.

8.9. Access to Information. Subject to applicable law and existing confidentiality agreements between the parties, upon reasonable notice, the Company shall afford the Investors and their directors, officers, employees, investment bankers, attorneys, accountants and other advisors or representatives, reasonable access, throughout the period prior to the Effective Date, to its employees, properties, books, contracts and records and, during such period, the Company shall furnish promptly to the Investors all information concerning its business, properties and personnel as may be reasonably requested by any Investor. Unless otherwise agreed to by the Company and the Investors, any such examination shall be conducted during regular business

hours upon reasonable advance notice and under reasonable circumstances and shall be subject to restrictions under applicable Law.

8.10. Notice of Alternate Transactions. In the event that either the Company or its representatives receive a written proposal or offer with respect to any Alternate Transaction which the board of directors of the Debtors, in the exercise of its fiduciary duties, determines may result in a transaction superior to the transactions contemplated hereby, the Company shall provide the Investors with written notice thereof within two (2) Business Days and, to the extent not expressly prohibited, such notice shall include a summary of the material terms of such proposal or offer, including, without limitation, economic terms, and conditions to entering into a definitive agreement. If, in the exercise of its fiduciary duties, the board of directors of the Debtors determines to seek authorization from the Bankruptcy Court to enter into a binding commitment for an Alternate Transaction, no later than five (5) Business Days prior to filing with the Bankruptcy Court a motion seeking authorization to enter into any binding commitments with respect to any Alternate Transaction, the Company shall give notice to the Investors that such Alternate Transaction, if so committed to, would give rise to a Company termination option pursuant to Section 15.4(b) and thereafter negotiate with the Investors in good faith (to the extent that the Investors so desire) with respect to any changes proposed by the Investors to the terms of this Agreement.

8.11. Notices. Between the date hereof and the Closing, each party shall give prompt written notice to the other parties hereto of (i) the occurrence, or failure to occur, of any event of which such party is aware which occurrence or failure would be likely to cause (a) any representation or warranty of such party contained in this Agreement to be untrue or inaccurate in any material respect, (b) any covenant of such party contained in this Agreement not to be satisfied or (c) any condition precedent contained in the Plan or this Agreement not to occur or become impossible to satisfy, (ii) receipt of any notice or other communication from any third party alleging that the consent of such party is or may be required in connection with the transactions contemplated by this Agreement or the Transaction Agreements, (iii) any notice or other communication from any governmental entity in connection with the transactions contemplated by this Agreement or the Transaction Agreements, (iv) any action commenced, or, to the knowledge of such party, threatened, relating to or involving or otherwise affecting such party or the transactions contemplated by this Agreement or the Transaction Agreements, and (v) any failure of any such party to comply, in any material respect, with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder.

8.12. Regulatory Filings. If the Company or the Investors determine a filing is or may be required under applicable law in connection with the transactions contemplated hereunder, including, any filing or notification required under the HSR Act, the Company and the Investors shall use commercially reasonable efforts to promptly prepare and file all necessary documentation and to effect all applications that are necessary or advisable under applicable law with respect to the transactions contemplated hereunder so that any applicable waiting period shall have expired or been terminated as soon as practicable after the date hereof. The Investors shall use commercially reasonable efforts to cooperate with the Company in connection with any such filing. The Investors shall be responsible for payment of the applicable filing fee under the HSR Act, and each party shall be responsible for payment of its own respective costs and

expenses (including attorneys' fees and other legal fees and expenses) associated with the preparation of its portion of any antitrust filings.

8.13. Financial Information. For each month, beginning March 2010 until the Effective Date, the Company shall provide (i) upon written request of either of the Investors, to such Investor, an unaudited consolidated balance sheet and related unaudited consolidated statements of operations, consolidated statements of stockholders' equity and consolidated statements of cash flows for the month then ended within 30 days of the end of such month (the "Monthly Financial Statements") and (ii) to each Investor, a Revenue Report. The Monthly Financial Statements and Revenue Reports, except as indicated therein, shall be prepared in accordance with the Company's normal financial reporting practices. The Monthly Financial Statements shall fairly present in all material respects the financial position, results of operations and cash flows of the Company as of the dates indicated and for the periods specified.

8.14. Support by Investors. Each Investor agrees that it shall not consent to, or otherwise directly or indirectly support any restructuring or reorganization plan for the Debtors that is inconsistent with this Agreement or the Plan.

8.15. Change of Control Payments. From and after the Effective Date, each Investor agrees to cause HVM to pay any severance payments to the extent such payments are due and payable under the Change in Control Agreements in the amounts set forth in the Change in Control Letter; provided, that any such payments shall be made only to the extent that the applicable Change in Control Agreement is in effect and/or has not been superseded by any New Employment Agreement (as defined in Section 11.1) between the applicable employee and HVM, provided, further that if HVM Manager resigns and appoints NewCo Manager as successor manager of HVM, (i) NewCo Manager agrees to cause HVM to pay any severance payments to the extent such payments are due and payable under the Change in Control Agreements in the amounts set forth in the Change in Control Letter; provided, that any such payments shall be made only to the extent that the applicable Change in Control Agreement is in effect and/or has not been superseded by any New Employment Agreement (as defined in Section 11.1) between the applicable employee and HVM and (ii) the amounts paid by HVM under the Change in Control Agreements shall be reimbursed through the Management Agreements or the G&A Reimbursement Agreements (as each term is defined in the Plan).

Section 9. Operating Agreement and Registration Rights Agreement.

9.1. Operating Agreement. All Persons or entities that receive NewCo Common Interests under the Plan, including, without limitation, as a result of the Investment and exercise of the Rights, shall, as a condition to their admission to NewCo, be deemed to have agreed and to be bound by an operating agreement (the "Operating Agreement") of NewCo reasonably acceptable to NewCo and the Investors, which Operating Agreement shall include provisions relating to restrictions on transfers, tag-along rights, drag-along rights and other provisions which are reasonably acceptable to the Investors.

9.2. Registration Rights Agreement. The Investors (or InvestorCo) shall be entitled to become party to a registration rights agreement with NewCo that shall provide for, among other things, demand and piggyback registration rights, subject to usual and customary exceptions and

limitations, and which shall be in form and substance reasonably acceptable to the Investors and NewCo (the “Registration Rights Agreement”).

Section 10. NewCo Board of Managers.

10.1. As of the Effective Date, NewCo’s board of managers (the “NewCo Board of Managers”) shall be a seven (7) member board and shall be comprised as follows: (A) the chief executive officer of NewCo, (B) four (4) individuals designated by the Investors and (C) two (2) independent managers, both of whom are reasonably acceptable to the Investors.

10.2. Except as otherwise provided in the Plan, from and after the Effective Date, members of the NewCo Board of Managers shall serve and be selected pursuant to the terms of the Operating Agreement, which shall provide, among other things, that so long as the Investors continue to hold, directly or indirectly, through InvestorCo or otherwise, collectively, at least 25.00% of the NewCo Common Interests, or 50.00% of the NewCo Common Interests issued directly or indirectly, through InvestorCo or otherwise, to the Investors on the Effective Date, InvestorCo shall continue to have the right to elect four (4) members of the NewCo Board of Managers.

Section 11. Employment and Management Arrangements

11.1. In connection with the implementation of the Plan and the restructuring transactions contemplated thereby, it is currently contemplated that HVM will be the management company for the reorganized Debtors’ properties through the taxable real estate investment trust subsidiaries (“TRS”) of NewCo from and after the Effective Date. The current management agreements with HVM will be assumed by, or assumed and assigned to, the TRS (or a newly formed TRS, wholly owned either directly or indirectly by NewCo, or designated by an existing Debtor that is a TRS) and modified on the Effective Date pursuant to Section 11.5 of the Plan. On the Effective Date, HVM will enter into new employment agreements and other compensation arrangements, which shall be reasonably acceptable to the Investors, with the executive officers and senior management for HVM, who shall be reasonably acceptable to the Investors, relating to, among other things, compensation, benefits, and supplemental retirement benefits, which agreements will be mutually agreed to by the Investors and current management (the “New Employment Agreements”).

11.2. On and after the Effective Date, NewCo shall implement an equity incentive plan, in form and substance reasonably acceptable to the Investors, with shares of NewCo Common Interests being available for issuance thereunder, through a combination of the award of restricted membership interests and granting of equity-based awards, including, without limitation, restricted membership interests, deferred membership interests and options (the “NewCo Management Incentive Plan”). The identity of recipients, amount of grants, and other terms, including, without limitation, vesting, will be determined by the NewCo Board of Managers. The NewCo Management Incentive Plan will be designed to provide additional compensation to the executive officers and senior management of HVM for their management services. Payments and distributions with respect to the NewCo Management Incentive Plan will be made to HVM through and pursuant to and in connection with the management agreements with HVM that are being assumed by, or assumed and assigned to, the TRS (or a newly formed

TRS, wholly owned either directly or indirectly by NewCo, or designated by an existing Debtor that is a TRS) and modified on the Effective Date pursuant to Section 11.5 of the Plan to provide for, among other things, such payments.

11.3. It is understood that the New Employment Agreements and the NewCo Management Incentive Plan will be structured to provide incentive compensation that aligns the interests of management with those of the holders of NewCo Common Interests, either by creating an incentive compensation structure tied to the returns on the NewCo Common Interests or through an alternate structure mutually agreeable to the Company, management and the Investors. It is further understood that compliance with or satisfaction of this Section 11 shall not be a condition to the consummation of the transactions contemplated hereby.

Section 12. Public Statements.

12.1. Neither the Company nor the Investors shall issue any public announcement, statement or other disclosure with respect to this Agreement or the transactions contemplated herein without the prior consent of the other parties hereto, which consent shall not be unreasonably withheld or delayed, other than to the extent required by law, the Bankruptcy Code or Bankruptcy Rules, or as otherwise ordered by the Bankruptcy Court.

Section 13. Conditions to Closing.

13.1. The obligations of the Investors hereunder to consummate the transactions contemplated hereby shall be subject to the satisfaction prior to the Effective Date of each of the following conditions:

(a) Organizational Documents. All organizational documents of NewCo shall be in form and substance reasonably acceptable to the Investors.

(b) Organizational Structure. The structure of the transactions contemplated by this Agreement and the structure and organization of the Company on and after the Effective Date (including the implementation of any alternate structure, form or identity of NewCo and the corresponding changes to the structure of the Rights Offering and Investment Transactions, determined by the Investors in accordance with Section 1.1 hereof, and the characterization for tax purposes of any entity as a partnership, a corporation or a real estate investment trust); the utilization or preservation of any tax attributes or benefits of the Company (including the tax basis at which the Company holds the Business Assets); and the resolution of any tax issues or potential Liability, shall be reasonably acceptable to the Investors. The treatment of any current, contingent or potential Liability in the Confirmation Order shall be acceptable to the Investors in their sole and absolute discretion.

(c) Business Operations. As of the Effective Date, (i) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all equity or other ownership interests in the Debtors, (ii) at the Investors' election to be made in their sole and absolute discretion, (y) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all equity or other ownership interests in HVM Manager and HVM or (z) HVM Manager shall have resigned as manager of HVM and shall have appointed NewCo Manager as

successor manager of HVM, (iii) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to all Company Intellectual Property and BHAC/Homestead Intellectual Property, and (iv) NewCo, through itself or its Subsidiaries, shall have all right, title and interest to any and all of the Business Assets.

(d) Approval Order. The Approval Order shall have become a Final Approval Order.

(e) Approval of Plan. The Investors shall have approved, which approval shall not to be unreasonably withheld, prior to filing with the Bankruptcy Court: (i) the Plan and any related documents, agreements or arrangements (provided that the Investors hereby acknowledge that the Draft Plan is approved), (A) the terms of which are consistent in all material respects with this Agreement and the Draft Plan, (B) that provide for the release and exculpation of each Investor, its affiliates, shareholders, partners, directors, officers, employees, attorneys and advisors from any Liability for participation in the transactions contemplated by this Agreement and the Plan to the fullest extent permitted under applicable law and (C) that have conditions to confirmation and the Effective Date (and terms governing to what extent any such conditions can be waived and by whom) that are consistent with this Agreement; (ii) a Disclosure Statement that is consistent in all material respects with the Plan and this Agreement (provided that the Investors hereby acknowledge that the draft Disclosure Statement filed with the Bankruptcy Court on March 5, 2010 is approved); (iii) the order of the Bankruptcy Court authorizing and approving, among other things the Disclosure Statement and the solicitation of acceptances with respect to the Plan (the "Solicitation Order"); (iv) a Confirmation Order that is consistent in all material respects with the provisions of the Plan and this Agreement; and (v) any amendments or supplements to any of the foregoing, including, without limitation, the New Mortgage Loan (as referenced or defined in the Plan, and collectively, the "Plan Documents").

(f) Plan. The Company shall have complied in all material respects with the terms and conditions of the Plan that are to be performed by the Company prior to the Effective Date.

(g) Alternate Transaction. The Debtors shall not have entered into any binding commitments with respect to an Alternate Transaction.

(h) Change of Recommendation. There shall not have been a Change of Recommendation.

(i) Confirmation Order. The Confirmation Order approving the Plan (including, without limitation, all Plan Documents) shall be in form and substance approved by the Investors and shall provide among other things, that except as otherwise expressly provided for in the Plan, (i) all right, title and interest in and to any and all assets, property, unexpired leases and executory contracts of every kind and nature to be sold, assigned, transferred or otherwise disposed of under the Plan shall be sold, assigned, transferred and disposed of free and clear of any and all claims, liens and encumbrances of any entity (as such term is defined in section 101(15) of the Bankruptcy Code) including, without limitation, (a) any and all claims, liens, encumbrances and any and all right, title and interests related thereto of government entities with respect to tax Liabilities and (b) any and all claims, liens, encumbrances and any and all right, title and interests related thereto arising or resulting from or relating to the transactions contemplated hereby and by the Plan (including, without limitation, all Plan Documents), (ii)

NewCo shall not be a successor to any of the debtors in the Chapter 11 Cases by reason of any theory of law or equity, and (iii) NewCo and each of the Debtors shall not be a successor to Extended Stay, Inc. and shall not have any successor or transferee Liability of any kind, nature or character, including, without limitation, Liabilities arising or resulting from or relating to the transactions contemplated hereby and by the Plan (including all Plan Documents). The Confirmation Order shall be a Final Order (as such term is defined in the Plan).

(j) Payment of Transaction Expenses. All Transaction Expenses and other fees and expenses (including, without limitation, fees and expenses of counsel and the fees and expenses of financial advisors) required to be paid to the Investors under this Agreement and the Plan have been paid.

(k) Conditions to Effective Date. The conditions to the occurrence of the Effective Date of the Plan shall have been satisfied or waived by the Company and the Investors in accordance with the Plan.

(l) Rights Offering. Unless the Rights Offering is terminated or otherwise not effectuated pursuant to Section 4.2(b)(ii) of the Plan, the Rights Offering shall have been conducted in all material respects in accordance with this Agreement, the Disclosure Statement and the Plan and the Expiration Date shall have occurred.

(m) Purchase Notice or Satisfaction Notice. Unless the Rights Offering is terminated or otherwise not effectuated pursuant to Section 4.2(b)(ii) of the Plan, on the Notification Date, the Investors shall have received from the Company either (i) a Purchase Notice certifying as to the number of Unsubscribed Rights to be purchased or (ii) a Satisfaction Notice.

(n) Consents. All other material governmental and third party notifications, filings, consents, waivers and approvals required for the consummation of the transactions contemplated by this Agreement and the Plan shall have been made or received and remain in effect.

(o) No Legal Impediment to Issuance. No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority, and no judgment, injunction, decree or order of any federal, state or foreign court shall have been issued, that prohibits the implementation of the Plan, the Rights Offering, the Investment or the transactions contemplated by this Agreement or the Plan.

(p) Representations and Warranties. Except as provided in Sections 6.1(h) and (i) hereof, the representations and warranties of the Debtors, HVM Manager and HVM contained in Section 6 hereof shall be true and correct (without giving effect to any limitations as to materiality or Material Adverse Change set forth therein) as of the date hereof and at and as of the Effective Date with the same force and effect as if made at and as of such date (or, in the case of representations and warranties made as of a specific date, as of such date), except to the extent that any failure of such representations and warranties, individually or in the aggregate, to be true and correct has not caused, and would not reasonably be expected to cause, a Material Adverse Change. The representations and warranties contained in Sections 6.1(h) and (i) shall be true and correct as of the date hereof and at and as of the Effective Date with the same force and effect as

if made at and as of such date (or, in the case of representations and warranties made as of a specific date, as of such date).

(q) Covenants. The Company and each Investor shall have performed and complied with all of its covenants and agreements contained in this Agreement and in any other document delivered pursuant to this Agreement (including, without limitation, in any Transaction Agreement) in all material respects through the Effective Date.

(r) Company Liabilities. On and as of the Effective Date, the Company shall have no Liabilities, other than those incurred in the ordinary course of business not to exceed, individually or in the aggregate, forty million dollars (\$40,000,000), whether absolute, accrued, contingent or otherwise, except as contemplated by the Plan, set forth in the Disclosure Statement or set forth in the HVM Financial Statements.

(s) Management Compensation. To the extent such payments are due and payable, HVM shall pay any severance payments pursuant to the terms of the applicable Change in Control Agreements as in effect as of the date any such severance payments become due and payable, in the amounts set forth in the Change in Control Letter; provided, that any such payments shall be made only to the extent that the applicable Change in Control Agreement is in effect and/or has not been superseded by any New Employment Agreement between the applicable employee and HVM. NewCo or the Debtors shall have resolved any other claims of former executive officers of the Debtors, or executive officers that were employed by the Debtors after the Commencement Date and that have resigned from or been terminated by the Company prior to the Effective Date, on terms reasonably acceptable to the Investors or otherwise ordered by the Bankruptcy Court; provided, that, to the extent any claims under this section 13.1(s) are to be resolved by the Debtors, any such resolution may only be effectuated with the prior consent of the Investors, which consent is not to be unreasonably withheld.

(t) Operating Agreement. NewCo shall have executed the Operating Agreement.

(u) Regulatory Filing. Any filing required under applicable law in connection with the transactions contemplated hereunder and all necessary documentation or applications required in connection with any such filing shall have been filed by the Company and any applicable waiting period shall have expired or been terminated.

(v) Registration Rights Agreement. NewCo shall have entered into the Registration Rights Agreement.

(w) Other Plan Related Documents. All motions and other documents to be filed with the Bankruptcy Court in connection with this Agreement, the Plan, the Investment, the Standby Purchase Commitment, the Rights Offering, the offer and sale of the NewCo Common Interests, and payment of the fees contemplated hereunder and under the Plan, will be in form and substance reasonably acceptable to the Investors.

(x) BHAC/Homestead Intellectual Property. With respect to the BHAC/Homestead Intellectual Property that will be transferred to NewCo on the Effective Date, as of the Effective Date, (1) all material applications to register and registrations of the BHAC/Homestead Intellectual Property that were, prior to such transfer, owned by BHAC and/or Homestead are (i)

valid and in full force and effect, (ii) have not, except in accordance with the ordinary course practices of BHAC or Homestead, collectively, lapsed, expired or been abandoned (subject to the vulnerability of a registration for trademarks to cancellation for lack of use), and (iii) are not the subject of any opposition or cancellation filed with the United States Patent and Trademark Office or any other applicable Intellectual Property registry; (2) BHAC and Homestead have taken reasonable security measures to protect the confidentiality and value of its and their trade secrets (or other BHAC/Homestead Intellectual Property for which the value is dependent upon its confidentiality) and no such information has been misappropriated or is the subject of an unauthorized disclosure; (3) neither BHAC nor Homestead has received any written notice in the prior two (2) years that they are in material default (or with the giving of notice or lapse of time or both, would be in default) under any contract relating to the BHAC/Homestead Intellectual Property; (4) no BHAC/Homestead Intellectual Property rights that were, prior to such transfer, owned by BHAC and/or Homestead are being infringed by any other Person; and (5) neither BHAC nor Homestead has received any written notice of any claim of infringement, misappropriation, or violation with any such rights of others in the prior thirty (30) months. The consummation of the transactions contemplated hereby and by the Plan, including, without limitation, the transfer of any BHAC/Homestead Intellectual Property to NewCo, shall not result in the material loss or impairment of any rights to use the BHAC/Homestead Intellectual Property or obligate NewCo to pay any royalties or other amounts to any third party in excess of the amounts that would have been payable by BHAC or Homestead absent the consummation of the transactions contemplated hereby and by the Plan.

(y) Material Adverse Change. No Material Adverse Change shall have occurred from the date hereof to the Effective Date.

(z) Minimum Cash Balance.

- (1) In the event the Committed Proceeds equal four hundred fifty million dollars (\$450,000,000), as of the Effective Date, the Cash Balance of NewCo shall not be less than four hundred twenty million dollars (\$420,000,000) less the amount of any cash distributions to the holders of General Unsecured Claims (as referenced in the Plan).
- (2) In the event the Committed Proceeds equal three hundred twenty million dollars (\$320,000,000), as of the Effective Date, the Cash Balance of NewCo shall not be less than two hundred ninety million dollars (\$290,000,000) less the amount of any cash distributions to the holders of General Unsecured Claims (as referenced in the Plan).

(aa) New Alternate Mortgage Loan. The principal amount of the New Alternate Mortgage Loan (as referenced in and to be implemented pursuant to the Plan) shall not be in excess of three billion, two hundred million dollars (\$3,200,000,000) and the interest rate on the New Alternate Mortgage Loan (as referenced in and to be implemented pursuant to the Plan) shall be a fixed rate and shall not exceed 5.34%.

(bb) Compliance with FIRPTA. The Debtors shall have delivered to NewCo a non-foreign affidavit from their regarded owner, as applicable, (which for the avoidance of doubt is

either Extended Stay, Inc. or DL-DW Holdings LLC), dated as of Closing, sworn under penalty of perjury, in form and substance required under Treasury Regulations issued pursuant to Tax Code Section 1445, stating that, for U.S. federal income tax purposes, it is (i) not a disregarded entity; (ii) a transferor of Business Assets pursuant to the Plan; and (iii) not a “foreign person” as defined in Tax Code Section 1445. Each Debtor that is a Foreign Person Debtor shall have provided an affidavit dated as of Closing, sworn under penalties of perjury, that the interests, if any, transferred by the Foreign Person Debtor pursuant to the Plan are not U.S. real property interests within the meaning of Tax Code Section 897(c) and Treasury Regulation 1.897-1(c). For purposes of this Section, “Foreign Person Debtor” means any Debtor that is a “foreign person” within the meaning of Treasury Regulation Section 1.1445-2(b)(2)(i) and that is deemed for US tax purposes to be a transferor of property under the Plan.

13.2. All or any of the conditions set forth in this Section 13 may be waived in writing, in whole or in part by the Investors in their sole discretion.

Section 14. Closing.

14.1. The completion of the Rights Offering, if any, and Investment and the consummation of the Plan (the “Closing”) shall take place at the offices of Weil, Gotshal & Manges LLP, in New York, New York, on the Effective Date, provided that all of the conditions to the closing contained in Section 13 have been satisfied or waived by the Company or the Investors (as applicable) and provided that this Agreement has not been terminated in accordance with Section 15, or at such other location or such other date as may be mutually agreed by the Company and the Investors. The Closing shall be deemed to be effective as of 12:01 a.m. on the Effective Date and all documents and instruments shall be deemed to have been delivered simultaneously at such time.

14.2. At the Closing, the Company shall deliver to each of the Investors the following:

(a) A certificate or certificates representing the number of shares of NewCo Common Interests issued to each of the Investors (or InvestorCo) pursuant to Sections 1, 2 and 3 hereof; and

(b) A certificate of an officer of the Company to the effect that the condition set forth in Section 13(p) has been fulfilled and that the Company has complied with all of the covenants contained in this Agreement in all material respects.

14.3. At the Closing, each of the Investors (or InvestorCo) shall deliver to the Company the following:

(a) Payment of the Investment Consideration and the Unsubscribed Rights Purchase Price, if any; and

(b) A certificate of each Investor to the effect that the representations and warranties of such Investor contained in this Agreement are true and correct in all material respects on and as of the Effective Date, with the same effect as if made on the Effective Date.

Section 15. Termination.

15.1. Automatic Termination. This Agreement shall automatically terminate if any court of competent jurisdiction or other competent governmental or regulatory authority issues a final nonappealable order making illegal or otherwise restricting, preventing, or prohibiting the transactions set forth in this Agreement or the Plan in a manner that cannot be reasonably remedied by the Debtors or the Investors.

15.2. Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Effective Date upon the mutual written consent of the Company and the Investors.

15.3. Termination by the Investors. Prior to the Effective Date, the Investors may terminate this Agreement upon written notice to the Company of the occurrence of any of the following events, at which time the commitment of the Investors to cause InvestorCo to purchase the NewCo Common Interests as set forth in this Agreement shall terminate and all of the obligations of the Company (other than the obligations of the Company to pay the Expenses and the Commitment Payment and to satisfy their indemnification obligations set forth in this Agreement) shall be of no further force or effect:

- (a) [intentionally deleted];
- (b) [intentionally deleted];
- (c) [intentionally deleted];
- (d) [intentionally deleted];
- (e) the hearing on the Disclosure Statement does not occur prior to the earlier of (1) the first available date provided by the Bankruptcy Court or (2) April 8, 2010;
- (f) the Bankruptcy Court fails to enter an order approving the Disclosure Statement within three (3) Business Days following the hearing on the Disclosure Statement;
- (g) the hearing on confirmation of the Plan does not occur prior to the earlier of (1) the first available date provided by the Bankruptcy Court or (2) May 28, 2010;
- (h) the Confirmation Order, in form and substance acceptable to the Investors, has not been entered by the Bankruptcy Court within three (3) Business Day following the hearing on confirmation of the Plan;
- (i) the Effective Date does not occur on the fifteenth (15th) day following entry of the Confirmation Order by the Bankruptcy Court;
- (j) the withdrawal, amendment, modification of, or the filing of a pleading seeking to amend or modify, the Plan, the Disclosure Statement or any document related to the Plan or Disclosure Statement (including, without limitation, any motion, notice, exhibit, appendix or order) by the Company, which withdrawal, amendment, modification or filing is inconsistent with this Agreement or the Draft Plan, except as reasonably agreed in writing by the Investors;

(k) the filing by the Company of any motion or other request for relief seeking (i) to voluntarily dismiss any of the Chapter 11 Cases, (ii) conversion of any of the Chapter 11 Cases to chapter 7 of the Bankruptcy Code, or (iii) appointment of a trustee pursuant to Section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases;

(l) the entry of an order by the Bankruptcy Court (a) dismissing any of the Chapter 11 Cases, (b) converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, (c) appointing a trustee pursuant to Section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases; or (d) making a finding of fraud, dishonesty, or misconduct by any officer or director of the Company;

(m) a breach by the Company of any of its obligations under this Agreement that is not cured within three (3) Business Days after receipt of written notice thereof to the Investors;

(n) one or more of the conditions precedent to occurrence of the Effective Date or to the obligations of the Investors set forth in this Agreement becomes impossible to satisfy on or before the Effective Date; and

(o) at any time after the occurrence of a Material Adverse Change.

15.4. Termination by the Company. Prior to the Effective Date, the Company may terminate this Agreement upon written notice to the Investors of the occurrence of any of the following events, at which time the commitment of the Investors to cause InvestorCo to purchase the NewCo Common Interests as set forth in this Agreement shall terminate and all of the obligations of the Company shall be of no further force or effect, except as set forth in Section 15.5:

(a) at any time after a material breach of this Agreement by any Investor, which breach is not be cured within three (3) Business Days following the receipt by the Investors of notice of such breach; or

(b) if, in the exercise of its fiduciary duties the board of directors of the Debtors, the Debtors determine to pursue an Alternate Transaction and after complying with Section 8.10 hereof, the Debtors enter into a binding commitment with respect to an Alternate Transaction, provided, that if the Company so terminates pursuant to this Section 15.4(b), the Company's obligations to pay the Transaction Expenses shall remain in full force and effect;

(c) if, pursuant to Section 1.1, the Investors determine to change the corporate or organizational structure, form or identity of NewCo and such change would have a material adverse effect on the Debtors or their creditors (taken as a whole), as compared to the transactions currently contemplated in this Agreement and set forth in the Draft Plan, provided, that if the Company so terminates pursuant to this Section 15.4(c), the Company's obligations to pay the Expenses (but not the Commitment Payment) shall remain in full force and effect.

15.5. If the Agreement is terminated pursuant to the terms of Section 15, this Agreement shall forthwith become void and there shall be no further obligations on the part of the Company or the Investors, except for the obligations of the Company to pay the Transaction Expenses and to satisfy its indemnification obligations as set forth in this Agreement, which shall

survive termination of this Agreement and shall remain in full force and effect, provided, that the Company shall have no such obligation in the event that the Agreement is terminated pursuant to Section 15.4(a) (except for the obligations of the Company to satisfy its indemnification obligations provided in Section 16 hereof relating to any Proceedings (as defined in Section 16.1 hereof) asserted or commenced by a third party as a result of or arising out of or relating to this Agreement, the Investment, the Rights Offering or the Plan); provided, further that nothing in this Section 15.5 shall relieve any party from Liability for any willful breach of this Agreement.

15.6. Upon termination of this Agreement pursuant to this Section 15, other than the Commitment Payment, which shall be payable in accordance with Section 15.7, payment of all other amounts due under this Agreement shall be made no later than the close of business on the next Business Day following the date of such termination, except for amounts owing by the Company to the Investors for the reimbursement of Expenses for which the Investors have not then made a request, payment of which amounts shall be made not later than five (5) Business Days following the Investors' request.

15.7. The Commitment Payment shall be due and payable (a) in full, in cash within fifteen (15) days of the (i) Debtors' delivery of written notice to the Investors that the Debtors have determined to enter into an Alternate Transaction; provided, that with the consent of the Debtors, which consent shall not be unreasonably withheld, each of the Investors may severally elect to receive its portion of the Commitment Payment in equity of the reorganized Debtors or entity that emerges from the Chapter 11 Cases pursuant to and upon the effective date of the Alternative Transaction, provided, that such election must be made no later than the date that the Commitment Payment is due and payable, or (ii) Investors' delivery of written notice to the Debtors of the termination of this Agreement due to the Company's breach of its obligations hereunder or failure to perform or cause to occur any of the conditions precedent to closing as set forth in the Plan or this Agreement, or (b) if the conditions to the Plan or this Agreement cannot be satisfied despite commercially reasonable efforts to cause such conditions to be satisfied, or the Investors' commitment to purchase the NewCo Common Interests in the Investment or the Rights Offering is terminated pursuant to Section 15.3 of this Agreement based upon circumstances that arise (except in the event of a termination that is caused by the Investors' breach of their obligations under this Agreement or in the event that the closing condition set forth in Section 13.1(b) or 13.1(p) (but with respect to the closing condition in Section 13.1(p), only if such condition would otherwise be satisfied if the failure of any representations and warranties set forth in Section 6.1(s) hereof to be true and correct was not taken into account) cannot be satisfied, then the Commitment Payment shall be payable on the later of (x) fifteen (15) days from the Debtors' receipt of written notice from the Investors or (y) the date that the Debtors' Available Cash, after payment of the Commitment Payment, would be at least \$22.5 million (the "Cash Threshold"), but in any event no later than the Debtors' emergence from bankruptcy. The Cash Threshold shall be determined (the "Measurement Date") each month, commencing during the month after the notice of termination is provided, on the day following the day that the adequate protection payments are made to the Mortgage Debt Parties, in accordance with the Final Order (A) Authorizing the Use of Cash Collateral, (B) Granting Adequate Protection and (C) Modifying the Automatic Stay, entered on July 23, 2009 and amended on December 15, 2009 in the Chapter 11 Cases. For the avoidance of doubt, on each Measurement Date until payment in full of the Commitment Payment, the Debtors shall be

required to pay the Investors the amount of any Available Cash, until the Cash Threshold is reached.

Section 16. Indemnification.

16.1. The Debtors (the “Indemnifying Party”) shall indemnify and hold harmless the Investors, InvestorCo and their respective partners, members, managers and equity holders, and the respective officers, employees, affiliates, advisors, agents, attorneys, financial advisors, accountants, consultants of each such entity (each an “Indemnified Person”) from and against any and all losses, claims, damages, liabilities and expenses, joint or several, which any such Person or entity may incur, have asserted against it or be involved in as a result of or arising out of or in any way related to this Agreement, the Investment, the Rights Offering or the Plan, the transactions contemplated thereby, the use of proceeds thereunder or any related transaction or any claim, litigation, investigation or proceeding (“Proceedings”) relating to any of the foregoing, regardless of whether any of such Indemnified Persons is a party thereto, and reimburse each of such Indemnified Persons within ten (10) days of demand for any legal or other expenses reasonably incurred in connection with any of the foregoing; provided, however, that the foregoing indemnity shall not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or related expenses to the extent they have resulted from the bad faith, willful misconduct or gross negligence of such Indemnified Person. Notwithstanding any other provision of this Agreement, no Indemnifying Party shall be liable for any special, indirect, consequential or punitive damages in connection with its activities related to this Agreement, the Plan or the transactions contemplated hereby, it being understood and agreed that the Indemnifying Party shall be liable to an Indemnified Party for special, indirect, consequential or punitive damages that are incurred or suffered by a third party and that form a part of a claim by a third party against the Indemnified Party. The terms set forth in this paragraph survive termination of this Agreement.

16.2. Promptly after receipt by an Indemnified Person of notice of the commencement of any Proceedings with respect to which the Indemnified Person may be entitled to indemnification hereunder, such Indemnified Person shall, if a claim is to be made hereunder against the Indemnifying Party in respect thereof, notify the Indemnifying Party in writing of the commencement thereof; provided that (i) the omission so to notify the Indemnifying Party shall not relieve the Indemnifying Party from any Liability that it may have hereunder except to the extent it has been materially prejudiced by such failure and (ii) the omission so to notify the Indemnifying Party shall not relieve it from any Liability that it may have to an Indemnified Person otherwise than on account of this Section 16. In case any such Proceedings are brought against any Indemnified Person and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party shall be entitled to participate therein, and, to the extent that it may elect by written notice delivered to such Indemnified Person, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person; provided, that if the defendants in any such Proceedings include both such Indemnified Person and the Indemnifying Party and such Indemnified Person shall have concluded that there may be legal defenses available to it that are different from or additional to those available to the Indemnifying Party, such Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such Proceedings on behalf of such Indemnified Person. Upon receipt of notice from the Indemnifying Party to such Indemnified Person of its

election so to assume the defense of such Proceedings and approval by such Indemnified Person of counsel, the Indemnifying Party shall not be liable to such Indemnified Person for expenses incurred by such Indemnified Person in connection with the defense thereof (other than reasonable costs of investigation) unless (i) such Indemnified Person shall have employed separate counsel in connection with the assertion of different and/or additional legal defenses in accordance with the proviso to the next preceding sentence (it being understood, however, that the Indemnifying Party shall not be liable for the expenses of more than one separate counsel in any jurisdiction, approved by the Investors, representing the Indemnified Persons who are parties to such Proceedings), (ii) the Indemnifying Party shall not have employed counsel reasonably satisfactory to such Indemnified Person to represent such Indemnified Person within a reasonable time after notice of commencement of the Proceedings or (iii) the Indemnifying Party shall have authorized in writing the employment of counsel for such Indemnified Person.

16.3. The Indemnifying Party shall not, without the prior written consent of an Indemnified Person (which consent shall not be unreasonably withheld), effect any settlement of any pending or threatened Proceedings in respect of which indemnity has been sought hereunder by such Indemnified Person unless (i) such settlement relates solely to monetary damages for which the Indemnifying Party shall be responsible and includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all Liability on the claims that are the subject matter of such Proceedings and (ii) such settlement does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

Section 17. No Survival.

17.1. The representations and warranties of the Company and the Investors contained in this Agreement or in any certificate delivered hereunder shall not survive the Closing hereunder.

Section 18. Notices.

18.1. All notices, communications and deliveries required or permitted by this Agreement shall be made in writing signed by the party making the same, shall specify the Section of this Agreement pursuant to which it is given or being made and shall be deemed given or made (a) on the date delivered if delivered by telecopy or other standard form of written telecommunication (*e.g.* e-mail) and confirmed by receipt of electronic confirmation or other evidence of receipt, (b) on the date delivered, if delivered in person, (c) on the third (3rd) Business Day after it is mailed if mailed by registered or certified mail (return receipt requested) (with postage and other fees prepaid) or (d) on the day after it is delivered, prepaid, by an overnight express delivery service that confirms to the sender delivery on such day, as follows:

(1) if to the Investors, at:

Centerbridge Partners, L.P.
375 Park Avenue, 12th floor
New York, NY 10152
Attn: Vivek Melwani
William Rahm

Email: vmelwani@centerbridge.com
wrahm@centerbridge.com

-and-

Paulson & Co. Inc.
1251 Avenue of the Americas, 50th floor
New York, NY 10020
Attn: Daniel Kamensky
Email: daniel.kamensky@paulsonco.com

with a copy to (which shall not constitute notice):

Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004
Attn: Jennifer Rodburg, Esq.
Email: jennifer.rodburg@friedfrank.com

-and-

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
Attn: David M. Feldman, Esq.
Email: dfeldman@gibsondunn.com

(2) if to the Company, at:

c/o HVM L.L.C.
100 Dunbar Street
Spartanburg, SC 29306
Attn: Kevin McDougall, Esq.
Email: kmcdougall@extendedstay.com

with a copy to (which shall not constitute notice):

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attn: Jacqueline Marcus, Esq.
Email: jacqueline.marcus@weil.com

Section 19. Assignment.

19.1. This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns. This Agreement is

not assignable, in whole or in part; provided, however, that the Investors (or InvestorCo) may assign all or any portion of their obligations hereunder to one or more financial institutions reasonably acceptable to the Company; provided, that the Company's consent shall not be required for such an assignment to the other Investor or an affiliate of an Investor or InvestorCo. Upon any assignment, other than an assignment with the Company's consent, the obligations of the Investors (or InvestorCo) in respect of the portion of their obligations so assigned shall not terminate.

Section 20. Legends.

20.1. An appropriate restrictive legend shall be placed on the certificate or certificates representing the NewCo Common Interests issued pursuant to this Agreement in a form substantially similar to the legend set forth below:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT AND SAID LAWS OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS THEREOF, AND EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF AN OPERATING AGREEMENT WITH THE COMPANY, A COPY OF WHICH IS AVAILABLE FOR INSPECTION AT THE OFFICES OF THE COMPANY.

Section 21. Entire Agreement.

21.1. Prior Negotiations; Entire Agreement. This Agreement, including, without limitation, the agreements and documents attached as exhibits to and the documents and instruments referred to in this Agreement, constitutes the entire agreement of the parties and supersedes all prior agreements, arrangements or understandings, whether written or oral, between the parties with respect to the subject matter of this Agreement, except that the parties hereto acknowledge that any confidentiality agreements heretofore executed among the parties shall continue in full force and effect.

Section 22. Governing Law, Venue.

22.1. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK. THE INVESTORS HEREBY IRREVOCABLY SUBMIT TO THE *EXCLUSIVE* JURISDICTION OF, AND VENUE IN, THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND WAIVE ANY OBJECTION BASED ON *FORUM NON CONVENIENS*. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT,

OR THE BREACH, TERMINATION OR VALIDITY OF THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

Section 23. Waivers and Amendments.

23.1. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions of this Agreement may be waived, only by a written instrument signed by all the parties or, in the case of a waiver, by the party waiving compliance, and subject, to the extent required, to the approval of the Bankruptcy Court. No delay on the part of any party in exercising any right, power or privilege pursuant to this Agreement shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege pursuant to this Agreement, nor shall any single or partial exercise of any right, power or privilege pursuant to this Agreement, preclude any other or further exercise thereof or the exercise of any other right, power or privilege pursuant to this Agreement. The rights and remedies provided pursuant to this Agreement are cumulative and are not exclusive of any rights or remedies which any party otherwise may have at law or in equity. Notwithstanding anything to the contrary in this Agreement, no amendment that increases an Investors' obligations with respect to the Investment Transactions shall be effective against any Investor without such Investor's consent.

Section 24. Miscellaneous.

24.1. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other party (including, without limitation, via facsimile or other electronic transmission), it being understood that each party need not sign the same counterpart.

24.2. Headings. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning of this Agreement.

24.3. Severability. If any provision of this Agreement or the application thereof to any Person or circumstances is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances other than those as to which it has been held invalid, void or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

24.4. Specific Performance. The parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to an injunction or injunctions without the necessity of posting bond to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof, in addition to any other remedy to which they are entitled at law or in equity. Unless otherwise expressly stated in this Agreement, no right or remedy described

or provided in this Agreement is intended to be exclusive or to preclude a party from pursuing other rights and remedies to the extent available under this Agreement, at law or in equity.

24.5. Several, Not Joint, Obligations.

(a) The agreements, representations, warranties, covenants and obligations of the Investors are several and not joint, the agreements, representations, warranties, covenants and obligations of the Debtors under this Agreement are, in all respects, joint and several as among the Debtors, the agreements, representations, warranties, covenants and obligations of HVM Manager under this Agreement are, in all respects, several and not joint, and the agreements, representations, warranties, covenants and obligations of HVM under this Agreement are, in all respects, several and not joint.

(b) As provided by Section 1.1, the Investors currently contemplate completing certain of the Investment Transaction through InvestorCo. If InvestorCo is not organized by the Investors or InvestorCo does not perform the Investors' obligations or its obligations in accordance with this Agreement, each Investor will be responsible for and shall perform its ratable portion of such obligations, as provided on Schedule 1.2 and Schedule 3.2, on a several, and not joint, basis.

24.6. Interpretation and Construction. This Agreement has been freely and fairly negotiated among the parties hereto. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party because of the authorship of any provision of this Agreement. Unless the context requires otherwise, any agreements, documents, instruments or laws defined or referred to in this Agreement will be deemed to mean or refer to such agreements, documents, instruments or laws as from time to time amended, modified or supplemented, including, without limitation, (a) in the case of agreements, documents or instruments, by waiver or consent and (b) in the case of laws, by succession of comparable successor statutes. All references in this Agreement to any particular law will be deemed to refer also to any rules and regulations promulgated under that law. The words "include," "includes" and "including" will be deemed to be followed by "without limitation." The word "or" is used in the inclusive sense of "and/or" unless the context requires otherwise. References to a Person are also to its permitted successors and assigns. Pronouns in masculine, feminine and neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context requires otherwise. When a reference in this Agreement is made to an Article, Section, Exhibit, Annex or Schedule, such reference is to an Article or Section of, or Exhibit, Annex or Schedule to, this Agreement unless otherwise indicated. The words "this Agreement," "herein," "hereof," "hereby," "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. For all purposes of this Agreement, "Debtors" shall include the reorganized Debtors.

Section 25. Definitions.

“Alternate Transaction” means any solicitation, discussions or negotiations with respect to any plan, proposal, offer, financing or transaction with parties other than the Investors.

“Available Cash” shall have the meaning ascribed to such term in the Final Order (A) Authorizing the Use of Cash Collateral, (B) Granting Adequate Protection and (C) Modifying the Automatic Stay, entered on July 23, 2009 and amended on December 15, 2009, Docket Nos. 205 and 634, respectively.

“BHAC” means BHAC Capital IV LLC.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

“Cash Balance” means the sum of (w) cash and cash equivalents of the Debtors, HVM and HVM Manager plus (x) the Committed Proceeds, less (y) the amount of all accrued and unpaid administrative or other expenses payable pursuant to the Plan; it being understood that there shall be no deduction for any payments made (i) in connection with the purchase of a controlling interest in HVM or HVM Manager, (ii) to employees and/or members of HVM as a result of any change of control triggered by the Plan, (iii) in connection with the replacement of the Existing Letters of Credit, or (iv) to the holders of General Unsecured Claims (as referenced in the Plan); provided, that, to the extent any such payments referred to in clauses (i) to (iv) hereof have actually been made prior to the Effective Date, such payments shall be added back for purposes of calculating the Cash Balance.

“Change of Recommendation” means, (i) the Company or its board of directors or any committee thereof shall have withheld, withdrawn, qualified or modified (or resolved or proposed to withhold, withdraw, qualify or modify), in a manner adverse to the Investors, its approval or recommendation of this Agreement or the Plan or the transactions contemplated hereby or thereby or (ii) the Company or its board of directors or other governing body or any committee thereof shall have approved or recommended, or proposed to approve or recommend (including, without limitation, by filing any pleading or document with the Bankruptcy Court), any Alternate Transaction.

“Disclosure Schedules” means all schedules to this Agreement, inclusive of Schedule 6.1(c) – Schedule 6.1(w).

“Final Approval Order” means an Approval Order of the Bankruptcy Court, which has not been reversed, stayed, modified or amended, and as to which the 14-day period set forth in Rules 6004(h) and 3020(e) of the Bankruptcy Rules, as applicable, has expired or been waived by the Bankruptcy Court, and (a) the time to appeal, seek certiorari or request reargument or further review or rehearing has expired and no appeal, petition for certiorari or request for reargument or further review or rehearing has been timely filed, or (b) any appeal that has been or may be taken or any petition for certiorari or request for reargument or further review or rehearing that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed, from which certiorari was sought or to which the request was made and no further

appeal or petition for certiorari or request for reargument or further review or rehearing has been or can be taken or granted.

“Financial Statements” means, as they relate to the Company only, the consolidating balance sheet of DL-DW Holdings LLC and its Subsidiaries as of September 30, 2009 and the related consolidated statements of income and cash flows to the nine months then ended.

“FIRPTA” means the Foreign Investment in Real Property Tax Act of 1980.

“Homestead” means Homestead Village LLC.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1974, as amended.

“HVM Financial Statements” means the balance sheet and statement of operations of HVM as of September 30, 2009, as referenced in the Financial Statements.

“Intellectual Property” means, collectively, patents, trademarks, service marks, trade names, trademark registrations, service mark registrations, domain names, copyrights, licenses and know-how (including, without limitation, trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), and any registrations or applications to register the foregoing.

“Liability” means any liability or obligation of whatever kind or nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liability for taxes, including, without limitation, taxes arising as a result of the transactions contemplated by this Agreement or the Plan.

“Material Adverse Change” means any one or more changes, events, occurrences or effects, which individually or together with any other changes, events, occurrences or effects, have or result in, or would reasonably be expected to have or result in, any material adverse change to or effect on the business, results of operations, liabilities, finances, properties, assets or condition (financial or otherwise) of the Company or the ability of the Company to perform its obligation set forth in this Agreement and the Plan, including, without limitation, the Company’s obligations under the New Mortgage Loan or New Alternate Mortgage Loan, as applicable, in each case except for any such change, event or effect (a) resulting from any changes in any applicable law, or in generally accepted accounting principles, which take effect after the date hereof; (b) resulting from the announcement or performance of this Agreement or the transactions contemplated hereby; (c) resulting from any act or omission of the Company taken at the written direction of the Investors; or (d) resulting from the filing of the Chapter 11 Cases.

“Material Contract” means those contracts, agreements or arrangements (i) which are material to the business, results of operations, liabilities, finances, properties, assets or condition (financial or otherwise) of the Company or the ability of the Company to perform its obligation set forth in this Agreement and the Plan, including, without limitation, the Company’s obligations under the New Mortgage Loan or New Alternate Mortgage Loan, as applicable, or (ii) the loss, termination, repudiation or breach of which would cause, or would reasonably be expected to

cause, a Material Adverse Change, including, without limitation, those contracts listed on Schedule 6.1(k) hereto.

“NewCo Manager” means a newly formed Delaware limited liability company owned and controlled by Persons affiliated with or designated by the Investors and, pursuant to that certain Membership Interest Purchase Agreement by and between David Lichtenstein, the Debtors, and the Investors, dated as of February 23, 2010, appointed by HVM Manager as the successor manager of HVM.

“Person” means an individual, partnership, corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization, any other business entity, or a government entity (or any department, agency, or political subdivision thereof).

“Purchase Price” means, with respect to each NewCo Common Interest, the price per interest to be determined by dividing two-hundred twenty five million dollars (\$225,000,000) by the aggregate number of NewCo Common Interests to be issued in connection with the Rights Offering (including any NewCo Common Interests issued pursuant to the Standby Purchase Commitment).

“Revenue Report” means a report delivered within ten (10) days after the last business day of every month comparing (a) the Company’s actual revenue for the just concluded month to the forecasted revenue for that month that is contained in the detail underlying the financial forecast set forth in the Disclosure Statement and (b) the Company’s actual revenue for the trailing three month period to the forecasted revenue for the trailing three month period that is contained in the detail underlying the financial forecast set forth in the Disclosure Statement.

“Subsidiary” of any Person means, with respect to such Person, any corporation, partnership, limited liability company, joint venture or other legal entity of which such Person (either alone or through or together with any other subsidiary), owns, directly or indirectly, more than 50.00% of the stock or other equity interests, has the power to elect a majority of the board of directors or similar governing body, or has the power to direct the business and policies.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date first above written.

CENTERBRIDGE PARTNERS, L.P.,
on behalf of certain of its investment
funds and accounts managed by it

By: _____
Name:
Title:

PAULSON & CO. INC., on behalf of
certain of its investment funds and
accounts managed by it

By: _____
Name:
Title:

ESA PROPERTIES LLC
ESA 2005 PORTFOLIO LLC
ESA 2005- SAN JOSE LLC
ESA 2005- WALTHAM LLC
ESA ACQUISITION PROPERTIES LLC
ESA ALASKA LLC
ESA CANADA PROPERTIES BORROWER LLC
ESA FL PROPERTIES LLC
ESA MD BORROWER LLC
ESA MN PROPERTIES LLC
ESA P PORTFOLIO LLC
ESA P PORTFOLIO MD BORROWER LLC
ESA P PORTFOLIO PA PROPERTIES LLC
ESA P PORTFOLIO TXNC PROPERTIES LP
ESA PA PROPERTIES LLC
ESA TX PROPERTIES LP
ESH/HOMESTEAD PORTFOLIO LLC
ESH/HV PROPERTIES LLC
ESH/MSTX PROPERTY LP
ESH/TN PROPERTIES LLC
ESH/TX PROPERTIES LP
ESA MD BENEFICIARY LLC
ESA MD PROPERTIES BUSINESS TRUST
ESA P PORTFOLIO MD BENEFICIARY LLC
ESA P PORTFOLIO MD TRUST
ESA CANADA PROPERTIES TRUST
ESA CANADA TRUSTEE INC.
ESA CANADA BENEFICIARY INC.
ESA UD PROPERTIES LLC
ESA 2007 OPERATING LESSEE, INC.
ESA 2005 OPERATING LESSEE INC.
ESA OPERATING LESSEE INC.
ESA P PORTFOLIO OPERATING LESSEE INC.
ESA CANADA OPERATING LESSEE INC. [ONTARIO
CORP.]
ESA P PORTFOLIO TXNC GP L.L.C.
ESA TXGP L.L.C.
ESH/MSTX GP L.L.C.
ESH/TXGP L.L.C.
ESH/TN MEMBER INC.

By: _____
Name: David Lichtenstein
Title:

HVM MANAGER L.L.C.

By: _____
Name: David Lichtenstein
Title:

HVM L.L.C.

By: _____
Name: David Lichtenstein
Title:

Exhibit I

ESA Mezz Entities

ESA Mezz L.L.C.

ESA Mezz 2 L.L.C.

ESA Mezz 3 L.L.C.

ESA Mezz 4 L.L.C.

ESA Mezz 5 L.L.C.

ESA Mezz 6 L.L.C.

ESA Mezz 7 L.L.C.

ESA Mezz 8 L.L.C.

ESA Mezz 9 L.L.C.

ESA Mezz 10 L.L.C.

Exhibit J

ESA P Mezz Entities

ESA P Mezz L.L.C.

ESA P Mezz 2 L.L.C.

ESA P Mezz 3 L.L.C.

ESA P Mezz 4 L.L.C.

ESA P Mezz 5 L.L.C.

ESA P Mezz 6 L.L.C.

ESA P Mezz 7 L.L.C.

ESA P Mezz 8 L.L.C.

ESA P Mezz 9 L.L.C.

ESA P Mezz 10 L.L.C.

Exhibit K

Homestead Mezz Entities

ESH/Homestead Mezz L.L.C.

ESH/Homestead Mezz 2 L.L.C.

ESH/Homestead Mezz 3 L.L.C.

ESH/Homestead Mezz 4 L.L.C.

ESH/Homestead Mezz 5 L.L.C.

ESH/Homestead Mezz 6 L.L.C.

ESH/Homestead Mezz 7 L.L.C.

ESH/Homestead Mezz 8 L.L.C.

ESH/Homestead Mezz 9 L.L.C.

ESH/Homestead Mezz 10 L.L.C.