

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
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rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹
Reorganized Debtor.

§
§ Chapter 11
§
§ Case No. 19-34054 (BWO)
§
§
§

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Plaintiff,

v.

PATRICK HAGAMAN DAUGHERTY,
Defendant.

§
§
§
§
§ Adversary No. 25-03055
§
§
§
§
§

¹ Highland’s last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



**PATRICK DAUGHERTY’S FIRST SUPPLEMENTAL WITNESS AND EXHIBIT LIST
TO PATRICK DAUGHERTY’S SECOND AMENDED WITNESS AND EXHIBIT LIST
[DOCKET NO. 105]**

Defendant and Counter-Plaintiff Patrick Daugherty submits the following supplemental witness and exhibit list with respect to Daugherty’s Second Amended Witness and Exhibit List [Docket No. 105] List for Trial scheduled on April 17, 2026, at 9:00 a.m.

Witnesses

1. Patrick Daugherty
2. James Seery
3. T.J. Liles-Tims
4. Any witnesses called or designated by any other party;
5. Any witnesses necessary for impeachment, depending on the witnesses and evidence presented by other parties; and
6. Any witnesses necessary for rebuttal, depending on the witnesses and evidence presented by the parties.

Daugherty reserves the right to cross-examine any witness called by any other party.

Supplemental Exhibits²

| EXHIBIT NUMBER | DESCRIPTION | NOTES |
|-----------------------|--|--------------|
| PD-95 | (PDADV_018605) | |
| PD-96 | (PDADV_018651) | |
| PD-97 | (PDADV_018652) | |
| PD-98 | (PDADV_018864) | |
| PD- | Any document entered or filed in the Debtor’s chapter 11 bankruptcy case, including any exhibits thereto | |

² The exhibits identified herein supplant the witness and exhibit list filed with the Bankruptcy Court at Docket No. 105 on April 15, 2026.

| EXHIBIT NUMBER | DESCRIPTION | NOTES |
|-----------------------|---|--------------|
| PD- | Any exhibits identified by or offered by any other party at the hearing | |
| PD- | Any exhibits offered for impeachment and/or rebuttal purposes | |

Daugherty reserves the right to further supplement or amend his Second Amended Witness and Exhibit List any time prior to the trial. This First Supplemental Witness and Exhibit List is not intended to limit Daugherty at the hearing or to imply that Daugherty may not seek introduction of evidence that is not on this list. Daugherty reserves the right to use any of the exhibits designated by any other party in this case.

Dated: April 16, 2026.

Respectfully submitted,

GRAY REED

By: /s/ Andrew K. York

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 16th day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK



From: Hough, Steven C.
Sent: Monday, January 14, 2013 8:03 PM
To: 'TDameris@hcmlp.com'
Cc: 'TSurgent@hcmlp.com'; Abrams, Kevin
Subject: RE: HERA
Attachments: HERA (1st) Amendment (Walia-related) to Second Amended Restated LLC Agreement (00236187-5).DOC; 1st Am Blackline WSComparison_00236187-00236187.doc; HERA (2d) Amendment (indemnification) to Second Amended Restated LLC Agreement (00236453-2).DOC; 2d Am Blackline WSComparison_00236453-00236453.doc; HERA Member Consent (2d) (indemnification) (00236456-2).DOC; 2d Am Member Consent Blackline WSComparison_00236456-00236456.doc; HERA (3d) Amendment (amendment) to Second Amended Restated LLC Agreement (00236454-2).DOC; 3d Am Blackline WSComparison_00236454-00236454.doc; HERA - Written Consent (3d) Approving Transfer and Amendment Amendment (00236464-2).DOC; 3d Am Board Consent Blackline WSComparison_00236464-00236464.doc; HERA Member Consent (3d) (transfer and amendment) (00236465-2).DOC; 3d Am Member Consent Blackline WSComparison_00236465-00236465.doc

Ted:

Consistent with our telephone conversations earlier today, attached are revised drafts of the amendment papers for the proposed HERA buyout and blacklines comparing these documents to the versions that I circulated on Friday night.

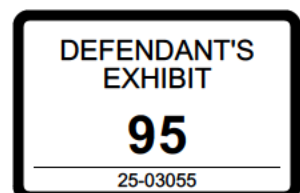
Sincerely,

Steven C. Hough*
Abrams & Bayliss LLP
20 Montchanin Road, Suite 200
Wilmington, DE 19807
Telephone: (302) 778-1004
Facsimile: (302) 261-0294
E-Mail: Hough@AbramsBayliss.com
* Admitted in New York, but not admitted in Delaware

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Hough, Steven C.
Sent: Friday, January 11, 2013 11:24 PM
To: 'TSurgent@hcmlp.com'; 'TDameris@hcmlp.com'
Cc: Abrams, Kevin
Subject: RE: HERA

Gentlemen:



Our comments on the proposed HERA buyout papers are reflected in the attached documents. Please let us know if you have any questions or would like to discuss further.

Sincerely,

Steven C. Hough*
Abrams & Bayliss LLP
20 Montchanin Road, Suite 200
Wilmington, DE 19807
Telephone: (302) 778-1004
Facsimile: (302) 261-0294
E-Mail: Hough@AbramsBayliss.com
* Admitted in New York, but not admitted in Delaware

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

-----Original Message-----

From: Abrams, Kevin
Sent: Friday, January 11, 2013 1:03 PM
To: 'TDameris@hcmlp.com'
Cc: 'TSurgent@hcmlp.com'; Hough, Steven C.
Subject: Re: HERA

Fyi--we are shooting to circulate our markups by later today. We see that certain steps are different than what we expected and we will let you know if we need a call to clarify anything. We are trying to use the structure in the papers that we received as much as possible.

Kevin G. Abrams
Abrams & Bayliss LLP
20 Montchanin Road
Suite 200
Wilmington, DE 19807
Main: 302-778-1000
Direct: 302-778-1002
Facsimile: 302-778-1001
Cell: 302-547-8000
E-Mail: abrams@abramsbayliss.com<<mailto:abrams@abramsbayliss.com>>

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

----- Original Message -----

From: Ted Dameris <TDameris@hcmlp.com>
To: Abrams, Kevin
Cc: Thomas Surgent <TSurgent@hcmlp.com>
Sent: Thu Jan 10 23:06:47 2013
Subject: Re: HERA

Perfect. Thx.

On Jan 10, 2013, at 9:42 PM, "Abrams, Kevin" <abrams@AbramsBayliss.com> wrote:

> We are trying to get comments to you by late tomorrow afternoon. I will have a better idea in the morning and will give you a status report.

>
> Kevin G. Abrams
> Abrams & Bayliss LLP
> 20 Montchanin Road
> Suite 200
> Wilmington, DE 19807
> Main: 302-778-1000
> Direct: 302-778-1002
> Facsimile: 302-778-1001
> Cell: 302-547-8000
> E-Mail: abrams@abramsbayliss.com<mailto:abrams@abramsbayliss.com>

>
> The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

>
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> ----- Original Message -----
> From: Ted Dameris <TDameris@hcmlp.com>
> To: Abrams, Kevin
> Cc: Thomas Surgent <TSurgent@hcmlp.com>
> Sent: Thu Jan 10 22:23:20 2013
> Subject: HERA

>
>
> Do you have an estimate on a timeframe to get back to us after your review of the documents?
>
> Dondero wants to get an estimate on timing so that he can prepare the necessary funds.

>
>
>
> _____
>

> DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

>
>

**AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”) is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Section 5.1 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member shall cease to hold Series A Preferred Units or until such member’s death, resignation or removal from ~~by~~[the](#) Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by holder(s) of Series A Preferred Units elected by a majority of the

remaining members of the Board, or if no such majority decision can be reached, by the holder(s) of the greatest number of Series A Preferred Units who are not then currently a member of the Board and who are willing to serve on the Board, or if no Series A Preferred Units remain outstanding, as determined by a majority of the remaining members of the Board.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed
as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013
7:23:33 PM

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| Total changes | 3 |

**SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS SECOND AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”), as amended, is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Article VIII of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the within Amendment.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an “Indemnitee”) shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys’ fees, to an Indemnitee against all liabilities and claims against each such person arising from such person’s performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in

connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and [/or the Initial Member and](#), to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013 7:28:25 PM

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| Format changed | 0 |
| Total changes | 6 |

**WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “*Company Agreement*”), as amended:

Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an “Indemnitee”) shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys’ fees, to an Indemnitee against all liabilities and claims against each such person arising from such person’s performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and /or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name: _____

By: _____

Number of Series A Preferred Units Held: _____

Dated: _____

Document comparison by Workshare Professional on Monday, January 14, 2013
7:36:24 PM

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|---------------|---|
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| Document 2 ID | file://F:\wdox\clients\729\00\00236456.DOC |
| Description | 00236456 |
| Rendering set | standard |

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| <u>Insertion</u> | |
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| Moved deletion | |
| Inserted cell | |
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| Split/Merged cell | |
| Padding cell | |

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|----------------|-------|
| | Count |
| Insertions | 5 |
| Deletions | 0 |
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| Moved to | 0 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 5 |

**THIRD AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS THIRD AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”), as amended, is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend ~~Section~~Sections 5.1 and 5.2 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the within Amendment;

WHEREAS, the holders of a majority-in-interest of the Company’s Series A Preferred Units have accepted [BUYER’S] Offer to Purchase dated [January __, 2013].

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to

bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

2. ~~1.~~ Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

3. ~~2.~~ This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

4. ~~3.~~ Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed
as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013
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**WRITTEN CONSENT
OF BOARD OF DIRECTORS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

Effective as of January __, 2013

THE UNDERSIGNED members of the board of directors (the “**Board**”) of Highland Employee Retention Assets LLC, a Delaware limited liability company (the “**Company**”), acting pursuant to the Delaware Limited Liability Company Act and the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “**Company Agreement**”), as amended, do hereby adopt the following resolutions by written consent:

WHEREAS, the Company desires to amend ~~Section~~Sections 5.1 and 5.2 of the Company Agreement in the form previously reviewed by the undersigned (the “**Amendment**”);

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the affirmative vote or written consent of at least 75% of the members of the Board is required in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, pursuant to Article IX of the Company Agreement, the prior written consent of the Board is required to assign Series A Preferred Units of the Company;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the Amendment;

WHEREAS, the holders of a majority-in-interest of the Company’s Series A Preferred Units have accepted [BUYER’S] Offer to Purchase dated [January __, 2013] (the “**Offer**”);

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January __, 2013] (the “**Assignment**”).

NOW, THEREFORE, BE IT

RESOLVED, that, subject to and conditioned upon a majority-in-interest of the Company’s Series A Preferred Units having consented to and ratified the Amendment and having accepted the Offer, the Board approves the proposed Amendment;

RESOLVED FURTHER, that, subject to and conditioned upon a majority-in-interest of the Company’s Series A Preferred Units having consented to and ratified the Assignment and having accepted the Offer, the Board approves the Assignment;

RESOLVED FURTHER, that the Company’s directors be, and they hereby are, authorized, empowered and directed for, in the Company’s name and behalf, to do and perform all acts and deeds, to execute and deliver all documents, instruments and other

agreements, to waive any and all conditions and do all things necessary or helpful to carry out and comply with the terms and provisions of the foregoing resolutions; and that all acts and deeds of the directors and agents on behalf of the Company prior to the date hereof shall be, and they hereby are, in all respects, ratified, approved, confirmed and adopted as the Company's acts and deeds;

RESOLVED FURTHER, that this authorization shall remain in effect until further written notice from the Company.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this Consent to be effective as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

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| Format changed | 0 |
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**WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “*Company Agreement*”), as amended:

Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member’s death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in

the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the

Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

THE UNDERSIGNED further consents to and ratifies the Board's approval of the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January __, 2013].

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name: _____

By: _____

Number of Series A Preferred Units Held: _____

Dated: _____

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| Style change | 0 |
| Format changed | 0 |
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**WRITTEN CONSENT
OF BOARD OF DIRECTORS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

Effective as of January __, 2013

THE UNDERSIGNED members of the board of directors (the “**Board**”) of Highland Employee Retention Assets LLC, a Delaware limited liability company (the “**Company**”), acting pursuant to the Delaware Limited Liability Company Act and the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “**Company Agreement**”), as amended, do hereby adopt the following resolutions by written consent:

WHEREAS, the Company desires to amend Sections 5.1 and 5.2 of the Company Agreement in the form previously reviewed by the undersigned (the “**Amendment**”);

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the affirmative vote or written consent of at least 75% of the members of the Board is required in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, pursuant to Article IX of the Company Agreement, the prior written consent of the Board is required to assign Series A Preferred Units of the Company;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the Amendment;

WHEREAS, the holders of a majority-in-interest of the Company’s Series A Preferred Units have accepted [BUYER’S] Offer to Purchase dated [January __, 2013] (the “**Offer**”);

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January __, 2013] (the “**Assignment**”).

NOW, THEREFORE, BE IT

RESOLVED, that, subject to and conditioned upon a majority-in-interest of the Company’s Series A Preferred Units having consented to and ratified the Amendment and having accepted the Offer, the Board approves the proposed Amendment;

RESOLVED FURTHER, that, subject to and conditioned upon a majority-in-interest of the Company’s Series A Preferred Units having consented to and ratified the Assignment and having accepted the Offer, the Board approves the Assignment;

RESOLVED FURTHER, that the Company’s directors be, and they hereby are, authorized, empowered and directed for, in the Company’s name and behalf, to do and perform all acts and deeds, to execute and deliver all documents, instruments and other

agreements, to waive any and all conditions and do all things necessary or helpful to carry out and comply with the terms and provisions of the foregoing resolutions; and that all acts and deeds of the directors and agents on behalf of the Company prior to the date hereof shall be, and they hereby are, in all respects, ratified, approved, confirmed and adopted as the Company's acts and deeds;

RESOLVED FURTHER, that this authorization shall remain in effect until further written notice from the Company.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this Consent to be effective as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

**AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”) is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Section 5.1 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member shall cease to hold Series A Preferred Units or until such member’s death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by holder(s) of Series A Preferred Units elected by a majority of the

remaining members of the Board, or if no such majority decision can be reached, by the holder(s) of the greatest number of Series A Preferred Units who are not then currently a member of the Board and who are willing to serve on the Board, or if no Series A Preferred Units remain outstanding, as determined by a majority of the remaining members of the Board.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

**SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS SECOND AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”), as amended, is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Article VIII of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the within Amendment.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an “Indemnitee”) shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys’ fees, to an Indemnitee against all liabilities and claims against each such person arising from such person’s performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in

connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

**THIRD AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THIS THIRD AMENDMENT (this “*Amendment*”) to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the “*Company*”) dated as of February 16, 2012 (the “*Company Agreement*”), as amended, is entered into as of January __, 2013 (the “*Effective Date*”) by and among the members of the board of directors of the Company (the “*Board*”). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Sections 5.1 and 5.2 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company’s Series A Preferred Units have consented to and ratified the Company adopting the within Amendment;

WHEREAS, the holders of a majority-in-interest of the Company’s Series A Preferred Units have accepted [BUYER’S] Offer to Purchase dated [January __, 2013].

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to

bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

2. Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

3. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

4. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

Patrick Boyce

John Honis

William L. Britain

Ted Dameris

Scott Ellington

**WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “*Company Agreement*”), as amended:

Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an “Indemnitee”) shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys’ fees, to an Indemnitee against all liabilities and claims against each such person arising from such person’s performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnatee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnatee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnatee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name: _____

By: _____

Number of Series A Preferred Units Held: _____

Dated: _____

**WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC**

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the “*Company Agreement*”), as amended:

Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the “*Board*”), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member’s death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board.
(a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in

the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the

Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

THE UNDERSIGNED further consents to and ratifies the Board's approval of the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January __, 2013].

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name: _____

By: _____

Number of Series A Preferred Units Held: _____

Dated: _____

From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 7:09 PM
To: Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Matthew Miller <mmiller@abramslaster.com>; Scott Ellington <SEllington@hcmlp.com>; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst' <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow
Attach: HERA Assets - Escrow_Depository Agreement (v.1).doc

All,

Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you what you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

Thanks,
Isaac

From: Isaac Leventon
Sent: Thursday, December 12, 2013 5:54 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; 'Hough, Steven C.' (Hough@AbramsBayliss.com); 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; Eric Girard
Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
North America: 1-866-984-4100
Conference ID: 205672
PIN: 972 470 9566

ISAAC LEVENTON | ASSISTANT GENERAL COUNSEL



300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4100 | D: 972.419.4482 | F: 972.628.4147
ileventon@hcmlp.com | www.hcmlp.com

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From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 9:18 PM
To: Mathew Miller <mmiller@abramslaster.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Scott Ellington <SELLington@hcmlp.com>; Marc D. Katz (marckatz@andrewskurth.com); Michael K. Hurst <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow
Attach: 12-13-13 Escrow Agreement (Final).doc

Matt,

Please see attached what should be the final execution version. Please let me know if you have any further comments before we execute.

Thanks,
Isaac

From: Miller, Matthew L. [mailto:Miller@AbramsBayliss.com]
Sent: Friday, December 13, 2013 2:44 PM
To: Isaac Leventon; Abrams, Kevin G.; Hough, Steven C.; Scott Ellington; Marc D. Katz (marckatz@andrewskurth.com); Michael K. Hurst; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Attached please find a clean copy and blackline reflecting Kevin Abram's markup to the escrow agreement. The escrow account is open, and wire instructions are as follows:

Direct to: Wells Fargo Bank, N.A., 420 Montgomery, San Francisco, CA 94104
ABA No. 121000248
Beneficiary: Highland Capital Management LP Client Abrams & Bayliss LLP TTE
Beneficiary Account No. [REDACTED]

For International Transfer only: International SWIFT BIC [REDACTED]
CHIPS Participant: ABA 0407

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
302-932-4686 (cell)

From: Isaac Leventon [mailto:ILeventon@hcmlp.com]
Sent: Friday, December 13, 2013 2:09 PM
To: Abrams, Kevin G.; Hough, Steven C.; Miller, Matthew L.; Scott Ellington; Marc D. Katz (marckatz@andrewskurth.com); Michael K. Hurst; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Please see attached draft escrow agreement.

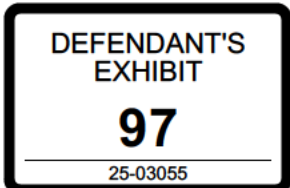
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Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
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From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 8:54 PM
To: Mathew Miller <mmiller@abramslaster.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Scott Ellington <SELLington@hcmlp.com>; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst' <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow

Matt,

We accept all of these changes. Let me add the final asset numbers and our authorized persons.

Isaac

From: Miller, Matthew L. [mailto:Miller@AbramsBayliss.com]
Sent: Friday, December 13, 2013 2:44 PM
To: Isaac Leventon; Abrams, Kevin G.; Hough, Steven C.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
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Beneficiary: Highland Capital Management LP Client Abrams & Bayliss LLP TTE
Beneficiary Account No. [REDACTED]

For International Transfer only: International SWIFT BIC [REDACTED]
CHIPS Participant: ABA 0407

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
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To: Abrams, Kevin G.; Hough, Steven C.; Miller, Matthew L.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
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Please see attached draft escrow agreement.

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Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

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Isaac

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Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
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From: Eric Girard <EGirard@hcmlp.com>
Sent: Friday, December 13, 2013 7:16 PM
To: 'Katz, Marc' <MarcKatz@andrewskurth.com>; Isaac Leventon <ILeventon@hcmlp.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Matthew Miller <mmiller@abramslaster.com>; Scott Ellington <SELLington@hcmlp.com>; 'Michael K. Hurst' <mhurst@ghjhlaw.com>
Subject: RE: Daugherty - HERA Escrow

Correct on the 1:30, but the 1:30 call is only for HCM, Andrews Kurth and Gruber Hurst.

From: Katz, Marc [mailto:MarcKatz@andrewskurth.com]
Sent: Friday, December 13, 2013 1:13 PM
To: Isaac Leventon; 'Abrams, Kevin (abrams@AbramsBayliss.com)'; 'Hough, Steven C.' (Hough@AbramsBayliss.com); 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

Will do. Please note, call is at 1:30

From: Isaac Leventon [mailto:ILeventon@hcmlp.com]
Sent: Friday, December 13, 2013 1:09 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; 'Hough, Steven C.' (Hough@AbramsBayliss.com); 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; Katz, Marc; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

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Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you what you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

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ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into December 13, 2013, by and between Highland Capital Management, L.P. ("Depositor"), and Abrams & Bayliss, LLP, as escrow agent (the "Escrow Agent").

WHEREAS, from time to time, pursuant to certain transactions, Depositor receives and holds certain funds; and

WHEREAS, Depositor is desirous of appointing the Escrow Agent as its agent to hold these funds subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Appointment.** Depositor hereby appoints Escrow Agent as its escrow agent for the purposes set forth herein, and Escrow Agent hereby accepts such appointment under the terms and conditions set forth herein.

2. **Deposit Assets.** Depositor agrees to deposit with Escrow Agent the assets as set forth in Schedule 1 (the "Deposit Assets"). Escrow Agent shall hold the Deposit Assets as set forth in this Escrow Agreement. Escrow Agent shall not have any liability for any loss sustained as a result of any increase or decrease of value of any Deposit Assets or for the failure of an Authorized Representative of Depositor to give Escrow Agent instructions regarding any Deposit Asset. All interest or other income earned under this Agreement shall be accumulated and become part of the Deposit Assets. Depositor hereby represents to Escrow Agent that Depositor shall file all necessary tax documentation in relation to the Deposit Assets and no other tax reporting of any kind is required given the underlying transaction giving rise to this Agreement.

3. **Disposition and Termination.**

(a) The Escrow Agent shall deliver the Deposit Assets upon, and pursuant to, the written instructions of Depositor in compliance with Section 3(b). Any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution of the Deposit Assets, must be in writing or set forth in a Portable Document Format ("PDF"), executed by Depositor as evidenced by the signatures of the person or persons signing this Agreement or one of its designated persons as set forth in Schedule 2 (each an "Authorized Representative"), and delivered to Escrow Agent only by confirmed facsimile or attached to an email on a Business Day only at the fax number or email address set forth in Section 8 below. No instruction for or related to the transfer or distribution of the Deposit Assets shall be deemed delivered and effective unless Escrow Agent actually shall have received it on a Business Day by facsimile or as a PDF attached to an email only at the fax number or email address set forth in Section 8 and as evidenced by a confirmed transmittal to Depositor's transmitting fax number or email address and Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder. Escrow Agent shall not be liable to Depositor or other person for refraining from acting upon any instruction for or related to the transfer or distribution of the Deposit Assets if delivered to any other fax number or email address, including but not limited to a valid email address of any employee of Escrow Agent. Depositor acknowledges that Escrow Agent is authorized to use the following funds transfer instructions to disburse any Deposit Assets due to Depositor, respectively, without a verifying call-back, as set forth in Section 3(b) below:

Depositor Bank name: Compass Bank
Account Name: Highland Capital Management, L.P. (Master Operating Account)
Routing#: [REDACTED]
Account#: [REDACTED]

(b) Escrow Agent shall only transfer Deposit Assets under the following circumstances:

i. In the event Escrow Agent is provided a final, non-appealable judgment against Highland Employee Retention Assets, LLC ("HERA") by Patrick Daugherty, his successors, or assigns ("Daugherty") in the case *Highland Capital Management, L.P. and Cornerstone Healthcare Group Holding, Inc. v. Patrick Daugherty v. Sierra Verde, LLC, et al.*, Cause No. 12-04005 in the 68th Judicial District of Dallas County, Texas ("Daugherty Action"). Escrow Agent shall, within 10 Business Days, transfer to HERA Deposit Assets equivalent to the amount of such judgment, or if the judgment against HERA exceeds the amount of Deposit Assets, Escrow Agent shall transfer to HERA all Deposit Assets, including accumulated income, held by Escrow Agent.

ii. In the event Escrow Agent is provided a final, non-appealable order dismissing Daugherty's claims against HERA in the Daugherty Action, Escrow Agent shall, within 10 Business Days, transfer all Deposit Assets, including accumulated income, to Depositor.

All transfers made in this Section 3(b) shall be made subject to Sections 6 and 7 herein.

(c) As used in this Section 3, "Business Day" shall mean any day other than a Saturday, Sunday or any Federal holiday. Upon delivery of the Deposit Assets by Escrow Agent, this Agreement shall terminate, subject to the provisions of Sections 6 and 7 herein.

4. **Escrow Agent.** Escrow Agent shall have only those duties as are specifically and expressly provided herein, which shall be deemed purely ministerial in nature. No other duties shall be implied, and under no circumstances shall the Escrow Agent be deemed a fiduciary of Depositor for the purposes of this Agreement. Escrow Agent has no knowledge of, nor any requirement to comply with, the terms and conditions of any other agreement, instrument or document other than this Agreement. Escrow Agent may conclusively rely upon any written notice, document, instruction or request delivered by Depositor believed by it to be genuine and to have been signed by an Authorized Representative without inquiry and without requiring substantiating evidence of any kind. Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it pursuant to, or in relation to this Agreement, except for willful misconduct causing direct loss to Depositor. Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents. Escrow Agent shall have no duty to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder. Anything in this Agreement to the contrary notwithstanding, in no event shall Escrow Agent be liable for special, incidental, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

5. **Resignation; Succession.** Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving ten (10) days advance written notice specifying a date when such resignation shall take effect. Escrow Agent shall deliver the Deposit Assets to any appointed successor escrow agent, or to the Depositor, at which time Escrow Agent's obligations under this Agreement shall cease and terminate. Any entity into which Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further act.

6. **Compensation.** Depositor agrees to pay Escrow Agent upon execution of this Agreement and from time to time thereafter reasonable compensation for the services to be rendered hereunder as agreed by Escrow Agent and Depositor.

7. **Indemnification and Reimbursement.** Depositor agrees to indemnify, defend, hold harmless, pay or reimburse Escrow Agent and its affiliates and their respective successors, assigns, directors, partners, agents and employees (the "Indemnitees") from and against any and all losses, damages, claims, liabilities, penalties, judgments, settlements, litigation, investigations, costs or expenses (including, without limitation, attorney's fees, expert fees and expenses and out-of-pocket expenses) (collectively "Losses"), arising out of or in connection with (a) Escrow Agent's performance of this Agreement, except to the extent that such Losses are determined by a court of competent jurisdiction through a final, non-appealable order to have been caused by the willful misconduct of

such Indemnitee; and (b) Escrow Agent's following any instructions or directions from Depositor received in accordance with this Agreement. Depositor shall pay all expenses (including attorney's fees) incurred by such Indemnitee as they are incurred in advance of the dispute's final disposition. The foregoing indemnification includes, but is not limited to, disputes between Depositor and Escrow Agent arising out of or in connection with this Agreement. Depositor hereby grants Escrow Agent a lien on, right of set-off against and security interest in the Deposit Assets for the payment of any claim for indemnification, fees, expenses and amounts due to Escrow Agent or an Indemnitee. In furtherance of the foregoing, Escrow Agent is expressly authorized and directed, but shall not be obligated, to charge against and withdraw from the Deposit Assets for its own account or for the account of an Indemnitee any amounts due to Escrow Agent or to an Indemnitee under Section 6 or 7. The obligations set forth in this Section 7 shall survive the resignation, replacement or removal of Escrow Agent or the termination of this Agreement.

8. **Notices.** All communications hereunder shall be in writing or set forth in a PDF attached to an email, and all instructions from Depositor to the Escrow Agent shall be executed by an Authorized Representative, and shall be delivered in accordance with the terms of this Agreement by facsimile, email or overnight courier only to the appropriate fax number, email address, or notice address set forth for each party as follows:

If to Depositor: Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas, 75201
Attention: General Counsel
Tel No.: (972) 628-4100
Fax No.: (972) 628-4147
Email: sellington@hcmllp.com

If to Escrow Agent: Abrams & Bayliss, LLP
20 Montchanin Road, Suite 200
Wilmington, Delaware 19807
Attention: Jean Chaney
Tel No.: (302) 388-2457
Fax No.: (302) 261-0293
Email: chaney@AbramsBayliss.com

9. **Compliance with Court Orders.** Escrow Agent shall provide Depositor with prompt written notice in the event that any of the Deposit Assets shall be attached, garnished, levied upon, or otherwise be subject to any court order, or the delivery thereof shall be stayed or enjoined by an order of a court. Escrow Agent hereby is expressly authorized, in its sole discretion, to obey and comply with all such orders so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that Escrow Agent obeys or complies with any such order it shall not be liable to Depositor hereto or to any other person by reason of such compliance notwithstanding such order be subsequently reversed, modified, annulled, set aside or vacated.

10. **Miscellaneous.** The provisions of this Agreement may be waived, altered, amended or supplemented only by a writing signed by the Escrow Agent and Depositor. Neither this Agreement nor any right or interest hereunder may be assigned by Depositor without the prior consent of Escrow Agent. This Agreement shall be governed by and construed under the laws of the State Delaware. Depositor and Escrow Agent irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law and consents to the exclusive jurisdiction of the courts located in the State of Delaware. To the extent that in any jurisdiction either Party may now or hereafter be entitled to claim for itself or its assets, immunity from suit, execution, attachment (before or after judgment) or other legal process, such Party shall not claim, and hereby irrevocably waives, such immunity. Escrow Agent and Depositor further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. No party to this Agreement is liable to any other party for losses due to, or if it is unable to

perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument or instruction, as applicable. All signatures of the parties to this Agreement may be transmitted by facsimile, and such facsimile will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party. If any provision of this Agreement is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Depositor represents warrants and covenants that each document, notice, instruction or request provided by Depositor to Escrow Agent shall comply with applicable laws and regulations. Except as expressly provided in Section 7 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than Escrow Agent and Depositor any legal or equitable right, remedy, interest or claim under or in respect of the Deposit Assets or this Agreement. The parties agree that irreparable harm would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which they are entitled at law or in equity. This Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred from the terms of this Agreement or any other agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.
As Depositor

By: 
Name: James Dondero
Title: President of Strand Advisors, Inc., as general partner

ABRAMS & BAYLISS, LLP
As Escrow Agent

By: _____
Name: Kevin G. Abrams
Title: Managing Partner

SCHEDULE I


The following shall be the Deposit Assets:

| <u>Asset</u> | <u>Amount</u> |
|--|-----------------|
| Cash (USD) | \$ 1,210,502.03 |
| Highland Restoration Capital Partners, L.P. limited partner interest (USD as of 9/30/2013) | \$1,820,050.49 |
| NexPoint Credit Strategies Deposit Assets shares | 1088.42 shares |

SCHEDULE 2

Telephone Numbers and Authorized Signatures for Person(s) Designated to Give Joint Instructions and Confirm Deposit Assets Transfer Instructions

For Depositor:

| <u>Name</u> | <u>Telephone Number</u> | <u>Signature</u> |
|--------------------|-------------------------|---|
| i. Scott Ellington | [REDACTED] |  |

All instructions, including but not limited to funds transfer instructions, whether transmitted by facsimile or set forth in a PDF attached to an email, must include the signature of the Authorized Representative authorizing said funds transfer on behalf of each Party.

From: Matthew Miller <Miller@AbramsBayliss.com>
Sent: Monday, December 5, 2016 5:26 PM
To: Scott Ellington <SELLington@HighlandCapital.com>; MarcKatz@andrewskurth.com; Bookhout, James (JamesBookhout@andrewskurth.com)
Cc: Abrams, Kevin G. <abrams@abramsbayliss.com>
Subject: FW: Highland
Attach: 2016_12_02_22_11_16.pdf

Team,

As reflected below, the funds A&B was holding in escrow on behalf of HERA have been transferred as instructed in Scott Ellington's December 2, 2016 letter.

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
302-932-4686 (cell)

From: Chaney, Jean Ann
Sent: Monday, December 05, 2016 12:12 PM
To: Abrams, Kevin G.; Miller, Matthew L.
Subject: Highland

The wire transfer to Highland was completed this morning. Please reference federal tracking #FW0066033340771986.

DEFENDANT'S
EXHIBIT

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25-03055