

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

HILL COUNTRY HILLSIDE LTD., a Texas Partnership also known as Hill Country Hillside, Ltd. and doing business as Hill Country RV Resort and as Cottage Rental; BRYAN KASTLEMAN, an individual; and DOES 1 through 20, inclusive

## YOU ARE BEING SUED BY PLAINTIFF:

## (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ABILITY CAPITAL SOLUTIONS, a California corporation

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

AUG 22 2013

John A. Clarke, Executive Officer/Clerk

By: R. THOMPSON Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

LOS ANGELES COUNTY SUPERIOR COURT  
415 W. Ocean Boulevard  
Long Beach, CA 90802  
SOUTH DISTRICT

CASE NUMBER:  
(Número del Caso):

NC059038

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Mark M. Scott CSBN#: 138569 (949) 760-1121 (949) 720-0182

BUCHALTER NEMER

18400 Von Karman Avenue, Suite 800 Irvine, California 92612

DATE:

(Fecha)

AUG 22 2013

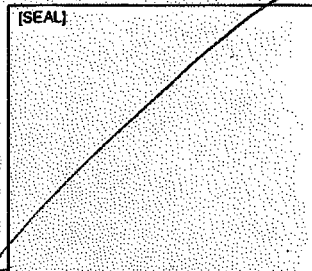
Clerk, by  
(Secretario)

R. THOMPSON

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

CASE MANAGEMENT REVIEW

AUG 22 2013

1 BUCHALTER NEMER  
A Professional Corporation  
2 MARK M. SCOTT (SBN: 138569)  
18400 Von Karman Avenue, Suite 800  
3 Irvine, CA 92612-0514  
Telephone: (949) 760-1121  
4 Fax: (949) 720-0182  
Email: mscott@buchalter.com

IN DEPARTMENT 527

John A. Clarke, Executive Officer/Clerk

R. THOMPSON

5 Attorneys for Plaintiff  
6 ABILITY CAPITAL SOLUTIONS, a California corporation

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 SOUTH DISTRICT

NC059038

11 ABILITY CAPITAL SOLUTIONS, a  
12 California corporation,

13 Plaintiff,

14 vs.

15 HILL COUNTRY HILLSIDE, LTD., a  
Texas partnership also known as  
16 Hill Country Hillside, Ltd. and  
doing business as Hill Country RV  
Resort and Cottage Rental; BRYAN  
17 KASTLEMAN, an individual; and  
DOES 1 through 20, inclusive,

18 Defendants.  
19

CASE NO. \_\_\_\_\_

COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. MONEY DUE FOR SERVICES PROVIDED;
3. DECLARATORY RELIEF;
4. DEFAMATION.

[UNLIMITED JURISDICTION]

20 Plaintiff Ability Capital Solutions ("Ability") alleges:

21 GENERAL ALLEGATIONS  
(Against Each Defendant)

22  
23 1. Ability is and at all times mentioned herein was a  
24 corporation duly organized and existing under the laws of the  
25 State of California doing business in the City of Long Beach in  
26 the County of Los Angeles.

27 2. Ability is informed and believes and thereon alleges  
28 that Defendant Hill Country Hillside Ltd. ("Hill") is and at all

1 times mentioned herein was a partnership organized under the laws  
2 of the State of Texas. Ability is further informed and believes  
3 and thereon alleges that Hill is also known as Hill Country  
4 Hillside, Ltd. and does business as Hill Country RV Resort and as  
5 Cottage Rental.

6 3. Ability is informed and believes and thereon alleges  
7 that Defendant Bryan Kastleman ("Kastleman") is and at all times  
8 mentioned herein was an individual residing in the State of  
9 Texas.

10 4. The true names and capacities of the Defendants named  
11 herein as DOES 1 through 20, whether individual, corporate,  
12 associate or otherwise, are unknown to Ability, who therefore  
13 sues these Defendants by fictitious names. Ability will amend  
14 the Complaint to show their true names and capacities when  
15 ascertained. The actions of DOES 1 through 20 as alleged herein  
16 were duly ratified by the Defendants, with each Defendant acting  
17 as an agent of the others and within the course and scope of said  
18 agency. Ability is informed and believes and thereon alleges  
19 that each of the Defendants designated herein as DOE is liable to  
20 Ability for the debts and actions hereinafter alleged.

21 5. Unlimited jurisdiction in the Superior Court of the  
22 State of California is appropriate because the amount in  
23 controversy, including compensatory and punitive damages, exceeds  
24 \$25,000.00. Jurisdiction and venue in the South District of the  
25 Los Angeles County Superior Court is appropriate because the  
26 contract which is the subject of this action was entered into and  
27 was to be performed within the judicial boundaries of the Los  
28 Angeles County Superior Court.

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**FIRST CAUSE OF ACTION**  
**(Breach Of Contract Against Hill**  
**And Does 1 Through 20)**

6. Ability repeats and realleges paragraphs 1 through 5 above, as though set forth in full.

7. Ability is a commercial equipment finance company that provides financing to businesses of all sizes to enable them to acquire equipment for use in their business. Ability offers a valuable service that fulfills a significant marketplace need.

8. Prior to finalizing a financing transaction, Ability and its commercial customer from time to time execute a written commitment agreement that memorializes the commitment of the parties to the financing transaction and which protects both. Ability's commitment agreement requires the borrower to make a deposit with Ability for the purpose of, among other things, demonstrating commitment to the transaction. If the customer does not fulfill its commitment with respect to completion of the terms of the commitment agreement, then Ability has the right under the contract to retain the deposit as a fully earned processing fee to help offset the losses caused by the customer's failure to fulfill its commitment. Without such commitment fees, financing companies like Ability might not be able to survive the significant transaction costs associated with customers who sign contracts and later attempt to de-commit or otherwise breach the contract following acceptance thereof.

9. On or about March 15, 2013, Hill executed a written Commitment Agreement (the "Agreement") pursuant to which Hill made an offer to enter into a financing transaction on the terms

1 and conditions thereof and in Addendum "1" attached thereto. In  
2 connection therewith, Hill made a commitment deposit in the  
3 amount of \$9,594.36 (the "Deposit") to Ability. Under the  
4 Agreement, Hill agreed that the Deposit would be retained by  
5 Ability in the event Hill failed to honor its commitment or if  
6 any material misrepresentation was made in connection with  
7 documentation and information provided to Ability. A copy of the  
8 Agreement is attached hereto as Exhibit "1."

9 10. Ability accepted Hill's offer in the Agreement. Since  
10 the inception of the transaction, Ability spent significant time,  
11 effort and resources toward completing the Hill financing  
12 transaction. Ability has performed all covenants, conditions and  
13 promises required on its part under the terms of the Agreement  
14 except for those which it is excused or was prevented from  
15 performing.

16 11. Hill and DOES 1 through 20 have defaulted under the  
17 Agreement by failing to perform in accordance with the terms and  
18 conditions thereof. The defaults, include but are not limited  
19 to, the following:

- 20 a. Failing to honor the commitment to submit all  
21 proper documents and to take all steps necessary  
22 to commence the funding, including full financial  
23 package;
- 24 b. Failing and refusing to perform its duties and  
25 obligations owed to Ability in good faith and in a  
26 fair manner;
- 27 c. Submitting false and misleading financial and  
28 background information;

- 1 d. Unilaterally canceling, terminating and reneging  
2 on the transaction;  
3 e. By repudiating the Agreement or otherwise  
4 improperly attempting to revoke the transaction;  
5 and  
6 f. Breaching the covenant of good faith and fair  
7 dealing.

8 12. As a result of the defaults of Hill and DOES 1 through  
9 20, Ability has incurred general, special and consequential  
10 damages in an amount according to proof at trial and in no event  
11 less than \$10,000.00. The damages include, but are not limited  
12 to:

- 13 a. Ability's loss of the benefit of the rate of  
14 return on the transaction had Hill performed as  
15 agreed;  
16 b. The expense of the significant amount of time,  
17 effort and energy devoted by Ability to the  
18 transaction at the request of Hill;  
19 c. Ability's out of pocket costs incurred in  
20 connection with the transaction.

21 13. Ability has made demand upon Hill and DOES 1 through 20  
22 to perform the obligations owed under the Agreement. Hill and  
23 DOES 1 through 20 have failed and refused to perform as agreed.

24 **SECOND CAUSE OF ACTION**

25 **(Money Due For Services Provided Against**  
26 **Hill And Does 1 Through 20)**

27 14. Ability repeats and realleges paragraphs 1 through 5  
28 and 7 through 13 above, as though set forth in full.

1        15. In the past two years, in the County of Los Angeles,  
2 State of California, Hill and DOES 1 through 20 became indebted  
3 to Ability for services provided by Ability at the request of  
4 Hill for which it agreed to pay Ability.

5        16. Other than the Deposit, no part of the amount owing to  
6 Ability due to the time, effort and costs which Ability devoted  
7 to the transaction as requested by Hill has been paid. This  
8 amount includes, but is not limited to, processing costs of the  
9 transaction in an amount according to proof at trial. As a  
10 result, there is now due, owing and unpaid from Ability and DOES  
11 1 through 20 to Ability an amount according to proof at trial.

12                    **THIRD CAUSE OF ACTION**

13                    **(Declaratory Relief Against Each Defendant)**

14        17. Ability repeats and realleges paragraphs 1 through 5, 7  
15 through 13 and 15 through 16 above, as though set forth in full.

16        18. In the context to the foregoing, Ability is informed  
17 and believes and thereon alleges that an actual controversy now  
18 exists between Ability, on the one hand, and Hill, Kastleman and  
19 DOES 1 through 20, on the other hand, and each them, with respect  
20 to the Deposit referred to hereinabove. Ability contends that  
21 Ability is entitled to retain the Deposit as a fully earned  
22 processing fee as permitted in the Agreement and seeks a  
23 declaration to that effect. Ability is informed and believes and  
24 thereon alleges that Hill, Kastleman and DOES 1 through 20 have  
25 refused to reaffirm Ability's right to retain the Deposit and,  
26 based thereon, contends that Hill, Kastleman and DOES 1 through  
27 20 deny Ability's right in that regard.

1 19. Ability seeks a declaration by this Court as to the  
2 respective rights, duties and obligations of the parties herein  
3 with respect to the Agreement and the Deposit. Such a  
4 declaration is necessary and appropriate since, in the absence  
5 thereof, the parties hereto will be acting at their substantial  
6 peril in pursuit of their conflicting interpretations and  
7 contentions.

8 **FOURTH CAUSE OF ACTION**

9 **(For Defamation Against Each Defendant)**

10 20. Ability repeats and realleges paragraphs 1 through 5, 7  
11 through 13, 15 through 16 and 18 through 19 above, as though set  
12 forth in full.

13 21. Ability is informed and believes and thereon alleges  
14 that Hill, Kastleman and DOES 1 through 20 contacted one or more  
15 third parties specifically for the purpose of attempting to harm  
16 Ability's reputation and business relationship within the  
17 financing industry and among financing customers in order to  
18 extract the return of more of the Deposit than that to which Hill  
19 was entitled. Among other things, Kastleman, acting individually  
20 and on behalf of Hill, submitted unfounded and inaccurate  
21 complaints, claims and other postings to various industry  
22 associations, trade publications and others within the financing  
23 industry. These defamatory statements were made to, among  
24 others, Leasing News, the National Association of Equipment Lease  
25 Brokers, the Equipment Lease Finance Association and the National  
26 Equipment Finance Association.

27 22. Ability is further informed and believes and thereon  
28 alleges that Hill, Kastleman and DOES 1 through 20 published



1 false, non-privileged and defamatory statements regarding Ability  
2 with knowledge of their falsity or with reckless disregard as to  
3 their veracity, with the intent to injure and damage Ability's  
4 reputation and to interfere with and to disrupt Ability's  
5 existing and prospective relationships.

6 23. Ability is informed and believes and thereon alleges  
7 that Hill, Kastleman and DOES 1 through 20 made the defamatory  
8 statements so that industry insiders, vendors, funding services,  
9 and prospective customers and third persons read the untrue  
10 unproved comments specifically for the purpose of leveraging or  
11 pressuring Ability into returning more of the Deposit than that  
12 to which Hill was entitled or, at the very least, to harm  
13 Ability's business relationship among financing customers or  
14 within the equipment financing industry.

15 24. Ability is informed and believes that Hill, Kastleman  
16 and DOES 1 through 20 may have contacted additional third parties  
17 for the same purpose and motivation.

18 25. Ability is informed and believes and thereon alleges  
19 that these false and defamatory statements were understood by  
20 third parties to be true. As a result, such publications have  
21 caused harm and damage to Ability's reputation with third  
22 parties.

23 26. Ability is informed and believes and thereon alleges  
24 that Hill, Kastleman and DOES 1 through 20 were aware at all  
25 times during those continued communications that Ability's  
26 reputation within the financing leasing is and was extremely  
27 important to Ability's business operation. Notwithstanding,  
28 Ability is further informed and believes that Hill, Kastleman and

DOES 1 through 20 expressly attempted to damage Ability's reputation in order to punish Ability and if possible, to extract the return of the Deposit.

27. As a proximate result of the conduct of Hill, Kastleman and DOES 1 through 20, Ability has incurred damages in an amount according to proof at trial for the injury to Ability's reputation within the equipment leasing industry.

28. Ability is informed and believes and thereon alleges that the acts of Hill, Kastleman and DOES 1 through 20 are malicious, willful and oppressive in that they are intended to cause injury to Ability or were done with a conscious disregard of Ability's rights. Accordingly, Ability is entitled to an award of punitive damages according to proof at trial.

**WHEREFORE,** Ability prays for judgment against the Defendants, and each of them, as follows:

**On The First Cause of Action**

1. For general and consequential damages in an amount according to proof at trial which is no less than \$10,000.00;

2. For further damages according to proof at trial;

**On The Second Cause of Action**

3. For general damages in an amount according to proof at trial;

**On the Third Cause of Action**

4. For a declaration by the Court consistent with Ability's allegations in paragraphs 18 through 19 hereinabove;

5. For Ability's reasonable attorneys' fees;

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**On the Fourth Cause of Action**


6. For general damages in an amount according to proof at trial.
7. For punitive damages in an amount according to proof at trial.

**On All Causes of Action**

8. For costs of suit incurred herein; and
9. For all such other and further relief as this Court may deem just and proper.

DATED: August 22, 2013

BUCHALTER NEMER  
A Professional Corporation

By:   
MARK M. SCOTT  
Attorneys for Plaintiff  
ABILITY CAPITAL SOLUTIONS, a  
California corporation





March 15, 2013

Bryan Kastleman  
President of General Partner  
Hill Country Hillside Ltd.  
2714 Bee Cave Rd. #204  
Austin, TX 78746

Dear Bryan:

Hill Country Hillside Ltd. ("Lessee") has solicited bids and quotations for the leasing of Personal Property. Ability Capital Solutions and/or its assignee(s) ("Ability") has proposed a leasing arrangement to Lessee at such rates, terms and conditions as are acceptable to Lessee. It is the intent of Lessee to formally offer to Ability to lease the Personal Property pursuant to the following terms and conditions:

<b>Lessor:</b>	Ability
<b>Lessee:</b>	Hill Country Hillside Ltd.
<b>Guarantors:</b>	Bryan Kastleman
<b>Credit Facility:</b>	Master Lease Line of Credit
<b>Lease Property:</b>	Mobile Homes, Furniture, cost associated with delivery and set up of mobile homes & other soft costs.
<b>Lease Property Cost:</b>	\$200,000.00
<b>Term:</b>	60 Months
<b>Payment Amount:</b>	\$3,797.18
<b>Advance Payment(s):</b>	2
<b>Securitization Fee:</b>	\$2,000.00

**Rental Adjustment:**

The lease rates quoted in this proposal have been calculated, in part, using an interest rate tied to the corresponding U.S. Treasury Note. The lease rate quoted is subject to change in the event such Treasury Notes yields fluctuate more than ten (10) basis points prior to the lease commencement date or where there is a material adverse change in the Lessee's credit.

- Type of Lease:** The lease would be a triple net lease, whereby the Lessee would be responsible for all expenses related directly or indirectly to the transaction, including, but not limited to, maintenance, taxes (other than the taxes imposed on the net income of the Lessor), insurance coverage, etc. The Lessee would be responsible for certain indemnifications including, but not limited to, indemnifications against all hazards, liabilities, damages and risks of loss.
- Documentation:** Lease Documentation will be Ability's standard lease documentation reflecting the terms and conditions of this Letter of Intent.
- Reliance on Commitment:** Lessee agrees to provide Ability with a Deposit (the "Deposit") in the amount of the Securitization Fee plus the Advance Payment(s) concurrently with the signing of this lease offer. In consideration of Ability's time, effort and expense in considering and responding to Lessee's offer herein, this offer shall be firm and irrevocable for twenty (20) business days from the receipt by Ability of all documentation and information required by Ability. Should Ability approve this lease offer, the Advance Payment(s) shall be applied to the Lease transaction. In the event Ability accepts this offer and Lessee does not fulfill its commitment with respect to completion of the terms and conditions of this Letter of Intent, then the Deposit will be considered a processing fee earned by Ability. The Deposit shall be retained as liquidated damages by Ability if the Lessee does not supply the documents and information required by Ability or otherwise comply with the terms of this lease offer, there is a material adverse change in Lessee's or any guarantor's financial condition (as determined in the discretion of Ability) or if any material misrepresentation is made by the Lessee in connection with the documents and information submitted to Ability. If this offer is not accepted and approved by Ability within the twenty (20) day limit referenced above and Lessee revokes said offer in writing thereafter, the Securitization Fee shall be non-refundable and the Lessee's Advance Payment(s) will be returned in full within thirty (30) days of Lessee's written request.
- Financial Information:** Lessee will provide financial statements and other business and financial information required by Ability within seven (7) business days of Ability's request.
- Legal:** This Lease Offer shall be considered to have been made in the City of Long Beach, County of Los Angeles, in the State of California and shall be interpreted in accordance with the laws of the State of California. The Lessee submits and consents to the exclusive jurisdiction of any claims or causes of action arising out of this offer in any State or Federal Court located in the State of California.

Ability's review of this Lease Offer does not represent a commitment or offer by Ability to enter into the proposed transaction. A commitment would be subject to Ability's due diligence and credit approval and would be evidenced by Ability's signed written approval. Ability will notify the Lessee in writing of its approval. This transaction, if approved, is contingent upon the successful execution of all required final documentation.

Upon receipt of an executed copy of this letter along with the required Deposit in the form of a COMPANY CHECK in the amount of \$9,594.36 Ability will finalize its due diligence of this transaction.

We at Ability Capital Solutions look forward to pursuing a mutually beneficial relationship. In the event that any questions arise, please do not hesitate to contact me at 562-472-0510.

Sincerely,

Brian Acosta  
Equipment Finance Specialist

Accepted By: *[Signature]*

Printed Name: Bryan Eastleman

Title: President of General Partner

Date: 3-15-13

ADDENDUM "1"  
TO  
EQUIPMENT FINANCE PROPOSAL DATED May 29, 2013

This Addendum hereby supplements and is made a part of the Equipment Finance Proposal dated March 15, 2013 (the "EFP") by and between Hill Country Hillside Ltd. and Ability Capital Solutions and all related supplementary documents under the EFP.

Capitalized terms used in this Addendum without definition shall have the meanings set forth in the EFP, unless specifically modified.

With respect to the EFP referenced above, the terms and conditions are amended as follows:

24 Months at \$2,976.84 (First and Last in

Advance plus a \$475.00 documentation fee)

All other terms and conditions of the EFP shall remain in full force and effect. The EFP, as amended herein, sets forth the entire and final understanding between the parties with respect hereto.

IN WITNESS WHEREOF, this Addendum has been signed as of the date set forth below the respective signatures.

LESSEE

By: *[Signature]*  
Name: Bryan K. Stenema  
Title: President of General Partner  
Date: 6-2-13

ABILITY CAPITAL SOLUTIONS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_