

FILED APR 16, 2013
DOCUMENT NO. 02001-13
FPSC - COMMISSION CLERK

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE:	§	
UPH HOLDINGS, INC.	§	CASE NO. 13-10570
PAC-WEST TELECOMM, INC.	§	CASE NO. 13-10571
TEX-LINK COMMUNICATIONS, INC.	§	CASE NO. 13-10572
UNIPOINT HOLDINGS, INC.	§	CASE NO. 13-10573
UNIPOINT ENHANCED SERVICES, INC.	§	CASE NO. 13-10574
UNIPOINT SERVICES, INC.	§	CASE NO. 13-10575
NWIRE, LLC	§	CASE NO. 13-10576
PEERING PARTNERS COMMUNICATIONS, LLC	§	CASE NO. 13-10577

DEBTORS.

EIN: 45-1144038; 68-0383568; 74-
2729541; 20-3399903; 74-3023729; 38-
3659257; 37-1441383; 27-2200110; 27-
4254637

6500 RIVER PL. BLVD., BLDG. 2, # 200
AUSTIN, TEXAS 78730

CHAPTER 11

JOINTLY ADMINISTERED UNDER
CASE NO. 13-10570

RECEIVED
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DIVISION OF
ADMINISTRATIVE & IT
SERVICES

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13 APR 16 PM 3:35
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CLERK

APPLICATION TO APPROVE EMPLOYMENT
OF TAMARACK ASSOCIATES, INC. AS FINANCIAL ADVISORS
TO THE DEBTORS, *NUNC PRO TUNC* TO THE PETITION DATE

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO
YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21)
DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED
HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO
BE HELD.**

COMES NOW UPH Holdings, Inc., ("UPH"), Pac-West Telecom, Inc., ("Pac-West"),
Tex-Link Communications, Inc. ("Tex-Link"), UniPoint Holdings, Inc. ("UniPoint Holdings"),
UniPoint Enhanced Services, Inc. ("UniPoint Enhanced"), UniPoint Services, Inc., ("UniPoint"),

DOCUMENT NUMBER - DATE
02001 APR 16 2013
FPSC - COMMISSION CLERK

nWire, LLC (“nWire”), and Peering Partners Communications, LLC (“Peering Partners”) (collectively the “Debtors”), by and through their proposed, undersigned counsel, and files this Application to Approve Employment of Tamarack Associates, Inc. as Financial Advisor to the Debtors, and pursuant to §§ 327(a) and 328 of the Bankruptcy Code (“Code”), Bankruptcy Rule 2014, and the Local Bankruptcy Rules of the Western District of Texas, hereby move this court for the entry of an order, substantially in the form attached hereto as Exhibit “C”, authorizing the retention and employment of Tamarack Associates, Inc. (“Tamarack”) as financial advisor to the Debtors in this chapter 11 reorganization case. In further support of this Application, the Debtors submit an affidavit (“Affidavit”), attached hereto as Exhibit “A,” signed by John Palmer (“Dr. Palmer”), a Senior Managing Director of Tamarack, and incorporated herein by reference, and respectfully represents as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157. Venue of the Debtors’ Chapter 11 case and this Application in this district is proper pursuant to 11 U.S.C. §§1408 and 1409. The statutory predicate for the relief sought herein is §327 and §328 of the Code.

II. BACKGROUND

2. On March 28, 2013 (the “Petition Date”) the Debtors filed voluntary petitions pursuant to Chapter 11 of Title 11 of the Code. The Debtors continue to manage their business and financial affairs as debtors-in-possession pursuant to §§1107(a) and 1108 of the Code.

3. An official committee of unsecured creditors has not yet been appointed. No request for a trustee or examiner has been made in this chapter 11 case.

4. The Debtors are a group of affiliated entities that provide telecommunication services in a variety of contexts including voice over Internet protocol (“VoIP”), local exchange and enhanced telecommunications and data services.

5. The Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code to enable them to reorganize and streamline their operations.

III. TAMARACK’S QUALIFICATIONS

6. Tamarack is a national consulting firm that specializes in corporate restructurings, operations improvement, litigation analytics, valuations and bankruptcy case management services. Tamarack’s office is located at 1441 Knightsbridge Drive., Blue Bell, Pennsylvania, 19422. Tamarack has extensive experience working with and for distressed companies in complex financial and operational restructurings, both out-of-court and in chapter 11 proceedings throughout the United States. Tamarack professionals have advised debtors, creditors and equity constituents in numerous reorganizations, which advisory services have included financial analysis and budgeting, forecasting, cash management, operational assessments and improvements, and the provision of interim management. Tamarack has advised companies with annual sales ranging from \$5 million to over \$5 billion in a broad range of industries. Tamarack’s principal, Dr. John Palmer, is well respected in the restructuring industry. Dr. Palmer’s resume is attached to the Palmer Affidavit as Exhibit “A-1.”

7. As set forth in Dr. Palmer’s resume, Dr. Palmer is the principal of Tamarack. He has provided a full range of crisis management services throughout North America to underperforming companies including interim management and debtor advisory work; bankruptcy preparation and management; litigation support; and debt restructuring and refinancing.

8. Dr. Palmer has led the turnaround team on more than 60 engagements during his tenure as Managing Director of NachmanHaysBrownstein, Inc. and Aurora Management

Partners. His bankruptcy experience includes serving as the Plan Administrator in charge of the liquidation of Montgomery Ward LLC, and as the Plan Administrator of Norstan Apparel Shops, Inc. He also served as the Chief Administrative Officer of Verso Technologies, Inc., and Craft Machine Works, Inc., and as the Chief Restructuring Officer of PPM Technologies, Inc.

IV. RELIEF REQUESTED

9. The Debtors wish to employ Tamarack, subject to the approval of this Court, pursuant to § 327(a) of the Bankruptcy Code. The Debtors have selected Tamarack because Tamarack has extensive experience in reorganization and bankruptcy case management services, is well-qualified to advise the Debtors in financial matters through the reorganization process, and has the staff and resources to enable it to do so efficiently. Tamarack's experience and knowledge will be valuable to the Debtors in their efforts to reorganize. Accordingly, Tamarack has the necessary background and knowledge to advise the Debtors in their chapter 11 cases in a cost-effective, efficient, and timely manner.

A. Scope of Services

10. The Debtors propose that Tamarack be employed as their financial advisor, *nunc pro tunc* to the Petition Date. Subject to this Court's approval, Tamarack will perform a broad range of services on the Debtors' behalf, including, but not limited to:

- a) Assist the debtor in developing and executing its turnaround/restructuring plan;
- b) Provide assistance with the preparation of 13-week cash flow forecast and evaluate short-term liquidity requirements of the Company;
- c) Provide assistance with the preparation of financial related disclosures required by the Court, including the Schedules of Assets and Liabilities, the Statement of Financial Affairs and Monthly Operating Reports, if necessary;
- d) Oversight and assistance with preparation of financial information for distribution to creditors and others, including but not limited to cash flow projections and budgets, cash receipts and disbursements, analysis of

various asset and liability accounts and analysis of proposed transactions for which Court approval is sought;

- e) Attending meetings with and providing assistance to professionals, potential investors, potential lenders, any official committee(s) appointed in the case, the U.S. Trustee and other interested parties;
- f) Evaluation of strategic alternatives as needed to maximize the value of the Debtors;
- g) Provide assistance with the preparation of an analysis of creditor claims, including the development of databases to track such claims;
- h) Evaluation and analysis of avoidance actions, including fraudulent conveyances and preferential transfers;
- i) Provide testimony in litigation/bankruptcy matters as required;
- j) Evaluate the cash flow generation capabilities of the Debtors for valuation maximization opportunities;
- k) Communications and negotiations with constituents, including trade vendors, investors, and others critical to the successful execution of the Debtors' near-term business plan;
- l) Assisting in the development and formulation of a disclosure statement and plan of reorganization and to assist the Debtors in obtaining confirmation and consummation of a plan of reorganization; and
- m) Perform other tasks as agreed to among CM, the Debtors and/or the Debtors' counsel.

11. A copy of the proposed agreement between the Debtors and Tamarack is attached hereto as Exhibit "B" and incorporated herein by reference. Tamarack intends to apply to this Court for allowances of compensation and reimbursement of expenses for financial advisory support services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and guidelines established by the United States Trustee.

B. Tamarack is Disinterested

12. Tamarack is disinterested within the meaning of 11 U.S.C. §101(14). The statement regarding Tamarack's compensation and disinterestedness required by Bankruptcy Rule 2014(a) is attached hereto as Exhibit "A" and is incorporated herein for all purposes.

WHEREFORE, PREMISES CONSIDERED, the Debtors respectfully request that the Court enter an order (1) approving the Application and authorizing the Debtors to employ Tamarack Associates, Inc. as financial advisors in this case *nunc pro tunc* to the Petition Date; and (2) granting the Debtors any other relief that is just and proper.

Dated: April 11, 2013.

/s/ J. Michael Holloway

J. Michael Holloway, President

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of April 2013, a true and correct copy of the foregoing has been served either electronically or via United States mail, postage prepaid, or facsimile to the following, and upon the parties listed on the attached.

U.S. Trustee
903 San Jacinto, Room 230
Austin, TX 78701

/s/ Patricia B. Tomasco

Patricia B. Tomasco

SERVICE LIST

Steve Hubbard / RBC
202 US Route One, Suite 206
Falmouth, ME 04105

One Communications/Earthlink
P.O. Box 415721
Boston, MA 02241-5721

America OnLine
P.O. Box 1450
Minneapolis, MN 55485-8702

Telesense
Cabs Department
P.O. Box 364300
Las Vegas, NV 89133-6430

Cox Communications
ATTN: COX ACCESS BILLING
P.O. Box 1053390
Atlanta, GA 30348-5339

CenturyLink
P.O. Box 2961
Phoenix, AZ 85062-2961

Frontier
P.O. Box 92713
Rochester, NY 14692-0000

Cogent Communications
P.O. Box 791087
Baltimore, MD 21279-1087

Genband, Inc.
P.O. Box 731188
Dallas, TX 75373-1188

Samsara
1250 S Capital of Texas Highway
Bldg 2-235
West Lake Hills, TX 78746

La Arcata Development Limited
ATTN: ACCOUNTS RECEIVABLE
c/o NAI Reco Partners
1826 N. Loop 1604 W, #250
San Antonio, TX 78248

Grande Communications Network
Dept 1204
P.O. Box 121204
Dallas, TX 75312-1204

Telus Corporation
215 Slater Street
Ottawa, Ontario, K1P 5N5
CANADA

Alpheus Communication
Attn: SVP – Contract
Administration
1301 Fannin, 20th Floor
Houston, TX 77002

Hines Reit One Wilshire, L.P.
Dept 34124
P.O. Box 390000
San Francisco, CA 94139

Bandwidth.Com, Inc.
75 Remittance Drive, Suite 6647
Chicago, IL 60675

Pac Bell
P.O. Box 166490
Atlanta, GA 30321-0649

Arent Fox LLP
1050 Connecticut Ave. N.W.
Washington, DC 20036-5339

FPL FiberNet LLC
TJ412-01-0-R
ATTN: FISCAL SERVICES
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pilot Communications
P.O. Box 77766
Stockton, CA 95267-1066

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Bankruptcy & Collections Division
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Austin, Texas 78711-2548

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Ilana Volkov
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Hackensack, New Jersey 07601

Valerie Wenger
Chapter 11 Trustee
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Austin, Texas 78701

Internal Revenue Service
P. O. Box 21126
Philadelphia, PA 19114

United States Attorney
816 Congress Avenue, Suite 1000
Austin, TX 78701

United States Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Texas Comptroller of Public Accounts
Revenue Accounting Division –
Bankruptcy Section
P.O. Box 13528
Austin, TX 78711

Texas Workforce Commission
TEC Building – Bankruptcy
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MOODY, P.C.
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Austin, Texas 78701

James Ruiz
Andrew J. Schumaker
Winstead P.C.
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Austin, Texas 78701

Hercules Technology II, LP
31 St. James Avenue, Suite 790
Boston, MA 02116

Hercules Technology Growth
Capital, Inc.,
31 St. James Avenue, Suite 790
Boston, MA 02116

UPH Holdings, Inc./Pac-West Telecomm, Inc./Tex-
Link Communications, Inc./UniPoint Holdings, Inc.
UniPoint Enhanced Services, Inc./UniPoint
Services, Inc./nWire, LLC
Peering Partners Communications, Inc.
6500 River Place Blvd., Bldg. 2, Suite 200
Austin, Texas 78730

Kelly M. Crawford, Esq.
Peter C. Lewis, Esq.
Scheef & Stone, L.L.P.
500 N. Akard, 27th floor
Dallas, Texas 75201

EXHIBIT "A"

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	
UPH HOLDINGS, INC.	§	CASE NO. 13-10570
PAC-WEST TELECOMM, INC.	§	CASE NO. 13-10571
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UNIPOINT SERVICES, INC.	§	CASE NO. 13-10575
NWIRE, LLC	§	CASE NO. 13-10576
PEERING PARTNERS COMMUNICATIONS, LLC	§	CASE NO. 13-10577
	§	
	§	
DEBTORS.	§	CHAPTER 11
	§	
EIN: 45-1144038; 68-0383568; 74- 2729541; 20-3399903; 74-3023729; 38- 3659257; 37-1441383; 27-2200110; 27- 4254637	§	JOINTLY ADMINISTERED UNDER CASE NO. 13-10570
	§	
	§	
6500 RIVER PL. BLVD., BLDG. 2, # 200 AUSTIN, TEXAS 78730	§	
	§	

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 DIVISION OF
 ADMINISTRATIVE
 SERVICES

**AFFIDAVIT OF JOHN PALMER IN SUPPORT OF THE
APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING THE
RETENTION AND EMPLOYMENT OF TAMARACK ASSOCIATES, INC. AS
FINANCIAL ADVISOR TO THE DEBTORS, NUNC PRO TUNCO PETITION DATE**

I, John Palmer, President of Tamarack Associates, Inc., being duly sworn, hereby deposes and says:

1. I am the President of Tamarack Associates, Inc., ("Tamarack").
2. Tamarack is a national consulting firm that specializes in corporate restructurings, operations improvement, litigation analytics, valuations and bankruptcy case management services. Tamarack office is located at 1441 Knightsbridge Drive., Blue Bell, Pennsylvania, 19422. My telephone number is (215) 616-4537 and my email address is

jpalmer@tamarackassoc.com. I am duly authorized to make this Affidavit on behalf of Tamarack and submit this Affidavit in connection with the application (the "Application") of the captioned debtors and debtors-in-possession (the "Debtors") for an order pursuant to §327 of the Bankruptcy Code authorizing the Debtor to retain and employ Tamarack to provide restructuring services to the Debtors.

3. Unless otherwise stated in this Affidavit, I have personal knowledge of the facts set forth herein and, if called as a witness, I would testify thereto. Capitalized terms and phrases not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

4. Tamarack and its professionals are well qualified to serve as the Debtors' financial advisor in this Chapter 11 case. Tamarack has extensive experience working with and for distressed companies in complex financial and operational restructurings both out-of-court and in Chapter 11 proceedings throughout the United States. Tamarack professionals have advised debtors, creditors and equity constituents in numerous reorganizations, which advisory services have included financial analysis and budgeting, forecasting, cash management, operational assessments and improvements, and the provision of interim management. Tamarack has advised companies with annual sales ranging from \$5 million to over \$5 billion in a broad range of industries. Tamarack's principal, Dr. John Palmer, is well respected in the turnaround industry, and has served as a Managing Director of NachmanHaysBrownstein, Inc. and Aurora Management Partners, both well know, national mid-market turnaround firms. A Summary of Tamarack's Qualifications and my resume are attached as composite Exhibit "A-1" to this Affidavit.

5. As a result of the proposed engagement of Tamarack by the Debtors, Tamarack has become familiar with the Debtors' business operations, capital structure, financing

documents and other material information, and is able to assist the Debtors in their reorganization effort. I believe that Tamarack and the professionals it employs are uniquely qualified to advise the Debtors in the matters for which Tamarack is to be employed.

6. Tamarack will perform a broad range of services on the Debtors' behalf, including but not limited to:

- a) Assist the debtor in developing and executing its turnaround/restructuring plan;
- b) Provide assistance with the preparation of 13-week cash flow forecast and evaluate short-term liquidity requirements of the Company;
- c) Provide assistance with the preparation of financial related disclosures required by the Court, including the Schedules of Assets and Liabilities, the Statement of Financial Affairs and Monthly Operating Reports, if necessary;
- d) Oversight and assistance with preparation of financial information for distribution to creditors and others, including but not limited to cash flow projections and budgets, cash receipts and disbursements, analysis of various asset and liability accounts and analysis of proposed transactions for which Court approval is sought;
- e) Attending meetings with and providing assistance to professionals, potential investors, potential lenders, any official committee(s) appointed in the case, the U.S. Trustee and other interested parties;
- f) Evaluation of strategic alternatives as needed to maximize the value of the Debtors;
- g) Provide assistance with the preparation of an analysis of creditor claims, including the development of databases to track such claims;
- h) Evaluation and analysis of avoidance actions, including fraudulent conveyances and preferential transfers;
- i) Provide testimony in litigation/bankruptcy matters as required;
- j) Evaluate the cash flow generation capabilities of the Debtors for valuation maximization opportunities;
- k) Communications and negotiations with constituents, including trade vendors, investors, and others critical to the successful execution of the Debtors' near-term business plan;

- l) Assisting in the development and formulation of a disclosure statement and plan of reorganization and to assist the Debtors in obtaining confirmation and consummation of a plan of reorganization; and
- m) Perform other tasks as agreed to among CM, the Debtors and/or the Debtors' counsel.

7. To check and clear potential conflicts of interest in this case, Tamarack has researched its client database to determine whether Tamarack has or had any connection with, among others, the following entities (the "Potential Parties in Interest"):

- a) The Debtors, its principals and affiliates;
- b) The Debtors' officers and directors;
- c) The Debtors' secured creditors;
- d) The Debtors' largest unsecured creditors, and any other parties in interest Tamarack could readily identify as clients of the firm; and
- e) The Debtors' professionals.

As part of this inquiry, Tamarack then entered the names of Potential Parties in Interest into a computer database maintained by Tamarack containing the names of all clients and conflict information concerning the clients of Tamarack. This inquiry revealed that no Potential Parties in Interest were current or former Tamarack clients. In an abundance of caution, Tamarack discloses that Scott Bluestein, a principal of Hercules Technology II, LLC was formerly an employee of Laurus Capital Management. NachmanHaysBrownstein, Inc. ("NHB") was engaged by Laurus to conduct an assessment of Verso Technologies, Inc., and was later retained by Verso as the Chief Administrative Officer during Verso' Chapter 11 proceeding. John Palmer, the Principal of Tamarack, led the two person team that conducted the Verso assessment and later represented NHB, serving as the Chief Administrative Officer of Verso during it Chapter 11 proceedings in the Northern District of Georgia. Laurus was the secured creditor of Verso and the entity that extended DIP financing during the Chapter 11. Mr. Bluestein was the portfolio manager at Laurus representing its interests during the case.

Aurora Management Partners was retained by PPM Technologies, Inc. to conduct an assessment and to serve as the Chief Restructuring Officer during its Chapter 11 proceeding in the Northern District of Illinois. Dr. Palmer was led the two person turnaround team which conducted the initial assessment and represented Aurora as the PPM CRO. Laurus was the secured creditor of PPM Technologies, Inc. Mr Bluestein was the banker at Laurus managing its interests in this case, during the initial stages of the proceedings. Mr. Bluestein left Laurus during the Chapter 11 proceeding and his role was assumed by others.

Subsequently, Dr. Palmer served as the CEO of PPM Technologies LLC, which was purchased in a Section 363 sale by Laurus Capital Management. As a result, Dr. Palmer was an employee of a company that was owned by Laurus Capital Management. However, Mr. Bluestein had left Laurus prior to Dr. Palmer's employment and had no role in the selection of the PPM CEO.

Mr. Bluestein, during his tenure at Laurus, also referred Dr. Palmer to several private companies that had received secured loans from Laurus Capital Management. Dr. Palmer served as the financial advisor two of these private companies.

Dr. Palmer has not worked before on any case where Hercules Technology is the secured creditor and has no experience working with other members of the Hercules team.

Dr. Palmer believes that his relationship with Mr. Bluestein is based solely upon Mr. Bluestein's recognition of Dr. Palmer's skills and expertise. Dr. Palmer does not believe that this recognition creates a conflict that will in any way infer with his duties to the Debtor in this case. Dr. Palmer worked with a broad cross section of the bankruptcy bar during his career, especially during his tenure as Plan Administrator of Montgomery Ward LLC. It is possible that a

professional engaged in this case may have been associated with Dr. Palmer is one of his previous engagement.

8. Neither Tamarack, nor to the best of my knowledge, any employee of Tamarack is or was a creditor or equity holder of the Debtors.

9. Neither Tamarack, nor to the best of my knowledge, any employee of Tamarack is or was an investment banker for any outstanding security of the Debtors.

10. Neither Tamarack, nor to the best of my knowledge, any employee of Tamarack, is or was, within three years before the commencement of this case, an investment banker for the Debtors, in connection with the offer, sale, or issuance of a security of the Debtors.

11. Neither Tamarack, nor to the best of my knowledge, any employee of Tamarack, is or was, within two years before the commencement of this case, a director, officer or employee of the Debtors.

12. Except as may be otherwise set forth herein, to the best of my knowledge, Tamarack, its principals and professionals (i) do not have any connection with the Debtors or its affiliates, creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee or any person employed in the office of the United States Trustee, (ii) are "disinterested persons" under section 101(14) of the Bankruptcy Code, and (iii) do not hold or represent any interest adverse to the Debtors and its estate. Tamarack does not and has not represented any person or entity, other than the Debtors, in matters related to this chapter 11 case.

13. The Debtors have numerous creditors and relationships with various individuals and entities that may be parties in interest in this case. Consequently, although every reasonable effort has been made to discover and eliminate the possibility of any conflict, including the

efforts outlined above, Tamarack is unable to state with certainty whether one of its clients or an affiliated entity holds a claim or otherwise is a party in interest in this chapter 11 case. If Tamarack discovers any information that is contrary to or pertinent to the statements made herein, Tamarack will disclose such information to the Court on notice to creditors and the United States Trustee promptly. Tamarack does not advise, has not advised, and will not advise any entity, other than the Debtors, in matters related to this chapter 11 case.

14. The proposed compensation is consistent with Tamarack's typical fee for work of this nature. The hourly rates are set at a level designed to compensate Tamarack fairly for the work of its professionals and assistants and to cover fixed and routine overhead expenses. It is Tamarack's policy to charge its clients for all disbursements and expenses incurred in the rendition of services.

15. The proposed compensation is comparable to those generally charged by financial consulting firms of similar stature to Tamarack and for comparable engagements, both in and out of court.

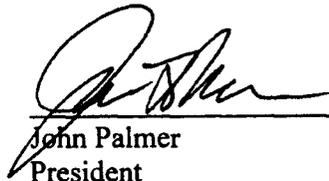
16. The proposed retention is reasonable and based on the customary compensation charged by Tamarack and comparably skilled practitioners in matters outside and other than chapter 11 cases, as well as cases under chapter 11, and has been approved and implemented in not just this jurisdiction but also in chapter 11 cases elsewhere. Indeed, the entire engagement as set forth in the Tamarack Engagement Letter, attached hereto as Exhibit A-2, is common within the industry and is at or below "market" both in and out of chapter 11 proceedings, in each case, in light of Tamarack's experience in reorganizations and the scope of work to be performed pursuant to its retention.

17. Other than as set forth above, no other arrangement is proposed between the Debtors and Tamarack for compensation to be paid in this case.

18. Tamarack intends to apply to the Court for payment of compensation and reimbursement of expenses in accordance with §§ 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the guidelines promulgated by the Office of the United States Trustee for the Western District of Texas (the "U.S. Trustee") and the Local Bankruptcy Rules and other orders of this Court, including but not limited to any interim compensation procedures that may be approved.

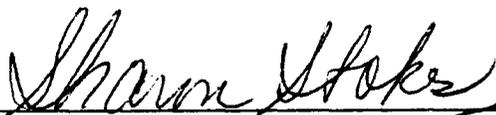
19. I declare that the foregoing is true and correct to the best of my knowledge.

Executed this 11 day of April 2013.



John Palmer
President
Tamarack Associates, Inc.

SWORN TO AND SUBSCRIBED before me this 11 day of April 2013.



Notary Public, in and for the State of Texas
My Commission Expires: 3-17-14

John L. Palmer, Ph.D.
Certified Turnaround Professional

EXHIBIT A-1

1441 Knightsbridge Drive
Blue Bell PA 19422

jpalmer@tamarackassoc.com

(215) 527-8950

Professional Experience

President and CEO, Tamarack Associates, Inc.

1990 – Present

All turnaround activities at both Aurora Management Partners and NachmanHaysBrownstein have been conducted via Tamarack Associates, Inc. My turnaround activities continue in my role as Principal of Tamarack.

CEO – SIRP Biological Coatings, Inc.

2011 - Present

Together with a well-known Philadelphia-based venture capitalist, we founded this biotechnology company based on technology licensed from the University of Pennsylvania and the Children's Hospital of Philadelphia. SIRP is currently conducting proof-of-concept animal trials aimed at demonstrating that the licensed technology has a demonstrable medical application.

Managing Director – Aurora Management Partners

2010 – 2011

Founded the Philadelphia office of this Atlanta-based turnaround firm.

Managing Director - NachmanHaysBrownstein, Inc.

1999 – 2010

Led the turnaround teams at this Philadelphia turnaround team on more than 60 assignments.

Turnaround CEO -

Chief Restructuring Officer, CEO – PPM Technologies LLC

February 2010 – July 2011

PPM Technologies Holdings, Inc. was a multinational roll-up of companies manufacturing food-processing equipment. The Chicago-based holding company consisted of a manufacturing subsidiary located in Newberg, OR, a very troubled Japanese registered sales office, a Swedish process engineering subsidiary, and a manufacturing subsidiary located in the UK. Sales had declined from \$54 million in 2008 to \$32 million in 2009 without a reduction in fixed costs.

The Swedish and UK subsidiaries were in administrative proceedings and US operations were in serious decline when I assumed control during the US Chapter 11 bankruptcy proceeding. I put together and directed a turnaround plan that stabilized cash flow and transferred ownership of IP and other critical assets from the foreign subsidiaries to the US estate. Additionally, I hired selected UK staff into a new UK company, which is currently providing more than 50% of sales. These steps enabled PPM to exit bankruptcy in June 2010 as a profitable company. During my subsequent tenure as CEO, I negotiated a shut down of the Japanese office with minimal cash drain to the parent and replaced the sales office with a representative that provides sales, aftermarket support and service. This model was replicated in establishing a new South African strategic partner.

John Palmer Resume

Under my leadership, PPM was consistently profitable since emerging from Chapter 11. As of June 2011, monthly breakeven was reduced to \$1.1 million, gross profit was maintained at 35% and the company was on pace to achieve \$22 million in 2011 sales.

Chief Administrative Officer – Verso Technologies, Inc., et al.

April – Dec 2009

Verso was a publicly traded telecommunications manufacturing company. I conducted a business analysis on behalf of the secured creditor that resulted in the company filing for Chapter 11. I was retained to plan and lead the bankruptcy. I obtained DIP financing to effectuate the plan. My plan and activities resulted in the identification of valuable multiple assets and the successful sale of the assets as four separate operating divisions and two groups of intellectual property. Prior to my appointment, Verso lost \$27m on \$50m annual revenue. The restructuring I put in place enabled me to operate the company on a cash positive basis post-petition.

Four operating company components were sold in separate S363 sales as were two sets of unused patents. The secured creditor was paid in full and the estate has sufficient funds for a 30% payment to unsecured creditors when I exited this case upon confirmation of the plan.

Plan Administrator – Montgomery Ward LLC et al.

October 2002 - Dec 2009

As Plan Administrator, I was in charge of the largest retail liquidation in history. I was subsequently also retained by GE Capital, Montgomery Ward's equity owner, to liquidate its collateral interest. Accomplishments include:

- Maintaining a rigorous fact-based standard for resolving more than 49,000 claims filed in this bankruptcy. Allowing general unsecured claims totaling \$320 million, a significant reduction from the \$8.3 billion value of filed claims.
- Supervising the collection of some \$40 million in preference settlements. I personally approved significant settlements and direct litigation/mediation activity, thereby ensuring a fair settlement to the estate.
- Administering the distribution of \$130 million to Ward's unsecured, priority and administrative creditors. Unsecured creditors received 34.5% of their claim during seven interim disbursement rounds, far in excess of the 20% distribution promised in the original GE Plan.
- Leading the task force that recovered excess assets of some \$60 million from the Ward's pension plan; directing the legal effort that reduced the excise tax on the excess assets to 14% from the statutory 50%.
- Doubling Ward's' payout from the Visa/MasterCard settlement by using an innovative technique devised for this purpose.
- Returning in excess of \$150 million in secured collateral to GE.

John Palmer Resume

Chief Administrative Officer – Norstan Apparel Shops, Inc. dba Fashion Cents

January 2005-2009

I took over the liquidation of this large, 172-store retail chain at a time when it was administratively insolvent. I dramatically reduced expenses, allowing Norstan to concentrate its resources on its Creditors Committee litigation. This litigation was settled and the estate is now solvent. To this end, I reviewed all claims filed in the bankruptcy, estimated the liability for each creditor class and helped develop Norstan's Plan of Liquidation.

I also served as an Expert Witness in preference litigation during the Norstan bankruptcy.

Chief Restructuring Officer – Craft Machine Works, Inc.

May to December 2007

I assumed the position of Chief Restructuring Officer of this manufacturer of over-the-road crane bodies and submarine components when it was deeply in debt and had exhausted all its cash. Neither the company's secured lender nor my NHB colleagues believed that a turnaround was possible in this case; indeed the company had been unprofitable for several years. After implementation of my restructuring plan, Craft reached profitability in October 2008.

Financial Advisor – Upstate New York Nursing Home Chain

April to December 2006

Some borrowers have character and some are characters, as documented in "*Four Lessons for Healthcare Lenders*", which I published in *ABF Journal*, June 2007. This was a case of the latter. The owner created a series of insurmountable obstacles that made a turnaround impossible. In spite of this, by a combination of cost saving measures and revenue enhancements that I implemented, the company was able to pay off all trust fund liabilities and improve the quality of medical care being delivered. Key achievements were:

- Significant streamlining of back office operations and cutting of administrative costs by 42%, saving millions of dollars.
- Implementing a health care program to significantly raise Medicare reimbursement revenue, thereby increasing the percentage of Medicare patients qualifying for the Super 9 highest paying rates from 1% to up to 47%.
- Implementing a recruitment program that resulted in a 3% chain-wide increase in Medicare patients.
- Negotiating and agreeing with New York Medicaid for an increase in reimbursement rates.
- Introducing changes to significantly reduce nursing turnover and the use of outside agency staffing.

Additionally, I led the NHB and Aurora turnaround teams on 60+ other private company engagements. Activities have included unwinding a series of private-equity sponsored roll ups,

John Palmer Resume

liquidating dot.com companies, restructuring a bio-tech pharmaceutical company, and uncovering fraud for a large national bank. Industries covered in these assignments include:

- Electronics/Telecom
- Manufacturing
- Distribution
- Retail
- Biotechnology
- Printing
- Banking
- Service
- Dot.com

Entrepreneurial and Business Experience

Co-Founder, Dynamis, Inc. – Cofounder of this biotechnology company based on technology I identified and licensed from Fox Chase Cancer Center.

Enzymatics, Inc

1985 to 1994

Founder, President and CEO
Chief Technical Officer

(1985 to 1988)
(1988 to 1994)

The sole founder of this point-of-care medical diagnostics company, I hired the initial staff, wrote the business plan and closed on the company's first \$2 million financing in 1987. I led the company through a second financing round and served as the Chief Technical Officer until the company was sold in 1994.

Key Accomplishments:

- As founder, Director and CTO, I played a key role in obtaining four rounds of venture financing and in the 1992 IPO, which was led by Vector Security and Wertheim Schroeder.
- I built and led the R&D team that developed the first FDA approved quantitative saliva diagnostic.
- I designed and built the manufacturing process for the Q.E.D. A150 and A350 Saliva Alcohol Tests. These products are currently included on the list of CLIA waived tests.

Repligen Corporation

1982 – 1985

Director, Protein Chemistry and Fermentation Develop

Led the team that brought rProtein A to market, one of the first recombinant-DNA products marketed.

Massachusetts General Hospital and Harvard Medical School

1979 - 1982

Assistant Biochemist, Massachusetts General Hospital Diabetes Unit
Instructor, Department of Medicine, Harvard Medical School

Conducted research on the mechanism of insulin action funded by a prestigious award, *Presidential Young Investors Aware*.

John Palmer Resume

Education, Qualifications

American Cancer Society Postdoctoral Fellow - Brandeis University	1978 to 1979
Ph.D., Biochemistry – Brandeis University	1978
BA, Chemistry – University of California, San Diego	1973
Certified Turnaround Professional	1992 to present

Memberships

Association of Certified Turnaround Professionals
American Bankruptcy Institute
Turnaround Management Association – Member of the Certification Oversight Committee
Association for Corporate Growth

Authorships

- ◆ Book Review of *The New Forensics: Investigating Corporate Fraud and the Theft of Intellectual Property* by Joe Anastasi, J Corporate Renewal, Oct. 2004
- ◆ *Fours Lessons for Healthcare Lenders*, ABF Journal, June 2007
- ◆ 12 US Patents
- ◆ 18 Scientific publication in peer-reviewed journals

Affiliations

Managing Director, NachmanHaysBrownstein, Inc. – 1999 to 2009

Managing Director, Aurora Management Partners, Inc. – 2009 to 2010

Tamarack Associates, Inc.

1441 Knightbridge Drive, Blue Bell PA 19422
Office (215) 616-4537, Cell (215) 527-8950
jpalmer@tamarackassoc.com

EXHIBIT A-2

March 19, 2013

J. Michael Holloway
President and Chief Executive Officer
UniPoint Holdings, Inc.
6500 River Blvd.
Building 2, Suite 200
Austin, TX 78730

Dear Mike:

This letter (the "Agreement") confirms that UniPoint Holdings, Inc., a Delaware corporation headquartered at the above address, (hereinafter referred to as "UniPoint" or the "Company") intends to engage Tamarack Associates, Inc. (hereinafter referred to as "Tamarack") to act as operational and financial advisors.

Services Provided. In conjunction with the above, Tamarack shall perform the following services in regards to UniPoint:

1. Tamarack will perform a review of UniPoint's financial situation, and prepare a 13-week cash flow forecast.
2. Tamarack will interview key employees and divisional managers and determine what issues are occurring at the division level.
3. Tamarack will review options for dealing with UniPoint's legacy liabilities, which will include an analysis of out-of-court restructuring and bankruptcy alternatives.
4. Tamarack will assist management in assessing which employees may need employment contracts with divisional managers and other key employees.
5. Tamarack will develop, in consultation with management, a turnaround/restructuring plan.
6. Tamarack will report Tamarack's observations and conclusions in writing to the UniPoint Board.
7. Tamarack will report to management of UniPoint, with daily reporting to J. Michael Holloway, President and CEO.



Tamarack Associates, Inc.

Consideration for Services Provided. In consideration for the services of Tamarack, UniPoint agrees to the following:

1. UniPoint agrees to provide a retainer of \$10,000.00 to be paid on execution of this agreement, by wire transfer to TD Bank, 1799 Swede Road, Blue Bell PA 19422, ABA [REDACTED], for the account of Tamarack Associates, Inc. account # [REDACTED].
2. Tamarack shall bill UniPoint for all services weekly, or sooner if required to maintain a positive retainer balance. Tamarack will bill the services of John L. Palmer, Principal, at a rate of \$250 per hour, billed in 1/10 hour increments. Associates, if used, will be billed at the rate of \$150 per hour. Travel time will be billed at one-half this hourly rate. UniPoint shall pay Tamarack's invoices upon presentation and Tamarack may apply the retainer to any past due billing and shall request that the retainer be replenished prior to performing additional services. The Company grants Tamarack a lien on and security interest in the funds Tamarack is holding as a retainer to secure all of the Company's obligations to Tamarack whether currently existing or hereinafter arising. After Tamarack has been indefeasibly paid, any remaining balance of the retainer shall be refunded to the Company.
3. Tamarack will cap its fees at \$15,000 during the assessment phase of this assignment, which will include all of the activities outlined above. Out-of-pocket expenses will be in addition to this fee cap.
4. Tamarack shall bill UniPoint for all out-of-pocket expenses incurred in the performance of future services on a weekly basis. Any individual expense greater than \$750.00 and expenses greater than \$5,000.00 per week in the aggregate shall require the prior written approval of UniPoint.
5. Either party may terminate this Agreement upon delivery of written notice to the other party. In the event of termination, all earned fees and all incurred expenses will be paid to Tamarack.

In addition to the above, UniPoint and Tamarack agree as follows:

Independent Contractor. Tamarack is an independent contractor and has no authority to act for or on behalf of UniPoint or to bind UniPoint to any contract, or in any other manner, without the approval of UniPoint. Nothing in this Agreement shall be construed to mean that Tamarack is a partner, joint venturer, associate or employee of UniPoint. Tamarack is an independent consulting firm engaged in its own business and shall not be responsible for the acts or omissions of UniPoint or its representatives.

Income Tax. UniPoint will not pay any income taxes on account of Tamarack, nor will UniPoint be required to withhold any monies from the compensation of Tamarack for tax purposes.

Tamarack Associates, Inc.

Indemnification, Contribution and Limitation of Liability. In connection with this Agreement, Tamarack requires UniPoint to provide for indemnification, contribution, and limitation of liability. Therefore, by signing this Agreement, UniPoint agrees to all provisions contained in Schedule A attached to this Agreement, which provisions are expressly incorporated by reference herein.

Communication. UniPoint shall provide current financial, operational and other information requested by Tamarack to Tamarack on a timely basis and notify Tamarack promptly of any material changes in the company and its prospects.

Confidential Information. Tamarack shall not disclose any confidential information to any person or entity that is not an officer, member of the Board of Managers, agent, or affiliate of UniPoint, unless such disclosure is authorized by UniPoint. Nothing in this section shall be interpreted as preventing Tamarack from providing daily updates and/or progress reports to Hercules Technology Growth Capital, UniPoint's secured lender.

Consultative Responsibilities. Any special accounting, legal, tax, or appraisal consultations required will be a responsibility of UniPoint unless otherwise approved by Tamarack; provided, however, no such consultations shall be conducted nor the expenses for same incurred without the prior written approval of UniPoint.

Commencement and Termination of Services. This Agreement shall commence once approved by UniPoint and shall terminate immediately upon receipt by one party of written notice of termination from the other party.

Dispute Resolution. UniPoint and Tamarack agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of either party with respect to any matter whatsoever arising out of the engagement of or performance by Tamarack hereunder. Any controversy or claim arising out of this Agreement, or the breach thereof, shall be settled by arbitration in Philadelphia, Pennsylvania, in accordance with the procedures and rules as prescribed and adopted by the American Arbitration Association ("AAA") and judgment upon the award rendered may be entered in any court having jurisdiction thereof. In any such arbitration, the parties shall be entitled to conduct discovery to the fullest extent permitted under Rule 26 of the Federal Rules of Civil Procedure; provided, however, that the arbitration panel, as applicable, shall resolve all discovery disputes upon a motion of either party. The prevailing party shall be entitled to a recovery of its fees and expenses incurred by it in connection with such controversy or claim.

Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same document.

Storage. This Agreement may be stored in electronic format as a PDF file. A scanned image of this Agreement showing the signatures of all of the parties hereto shall be

Tamarack Associates, Inc.

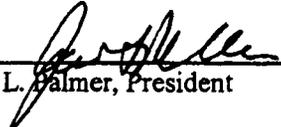
considered by all parties as identical to the original signed Agreement and used interchangeably in any legal proceeding without protest from either party to this Agreement.

Assignment and Modification. This Agreement may not be waived, amended, modified or assigned, in any way, in whole or in part, including by operation of law, without the prior written consent of both parties hereto. The provisions hereof shall inure to the benefit of and be binding upon the successors, assigns and personal representatives of UniPoint and Tamarack.

Governing Law; Jurisdiction. This Agreement shall be governed by the law of the Commonwealth of Pennsylvania, without regard to conflicts of laws principles. Subject to the provisions of the "Dispute Resolution" paragraph of this Agreement, Tamarack and UniPoint hereby submit to the jurisdiction of the courts of the Commonwealth of Pennsylvania in any proceeding arising out of this Agreement, including federal district courts located in such state, agrees not to commence any suit, action or proceeding relating thereto except in such courts, and waives, to the fullest extent permitted by law, the right to move to dismiss or transfer any action brought in such court on the basis of any objection to personal jurisdiction, venue or inconvenient forum.

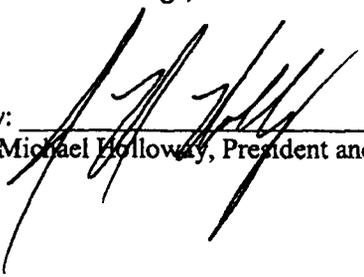
If this Agreement is in accordance with your understanding, please sign, date and return one copy of this letter.

Sincerely,
Tamarack Associates, Inc.

By: 
John L. Palmer, President

The foregoing is accepted and agreed to by UniPoint Holdings, Inc., as of the 19th day of March, 2013.

UniPoint Holdings, Inc.

By: 
J. Michael Holloway, President and CEO

Tamarack Associates, Inc.

SCHEDULE A

**TAMARACK ASSOCIATES, INC.
INDEMNIFICATION, CONTRIBUTION AND
LIMITATION OF LIABILITY PROVISIONS**

Indemnification. UniPoint agrees to indemnify and hold harmless Tamarack and its affiliates and their respective officers, directors, employees and agents, and any persons controlling Tamarack or any of its affiliates within the meaning of Section 15 of the Securities Act of 1933 or Section 20 of the Securities Exchange Act of 1934 (Tamarack and each other person or entity being referred to herein as an "Indemnified Person"), from and against all claims, liabilities, losses or damages (or actions in respect hereof) or other expenses which:

- (a) arise out of (i) actions taken or omitted to be taken (including any untrue statements made or any statements omitted to be made) by UniPoint or its affiliates or (ii) actions taken or omitted to be taken by an Indemnified Person in conformity with the actions or omissions of UniPoint or its affiliates; or
- (b) otherwise arise out of Tamarack's activities on behalf of UniPoint.

Reimbursement. UniPoint agrees to reimburse each Indemnified Person for all out-of-pocket expenses (including fees and expenses of counsel) as they are incurred by such Indemnified Person in connection with investigating, preparing, conducting or defending any action or claim as described in (a) or (b) in the Indemnification section above, whether or not in connection with litigation in which any Indemnified Person is a named party, or in connection with enforcing the rights of such Indemnified Person under this Agreement.

Contribution. If for any reason, the foregoing indemnity is unavailable to an Indemnified Person or insufficient to hold an Indemnified Person harmless, then UniPoint shall contribute to the amount paid or payable by such Indemnified Person as a result of a claim, liability, loss, damage or expense, as described in (a) or (b) of the Indemnification section above, in such proportion as is appropriate to reflect not only the relative benefits received by UniPoint on the one hand and Tamarack on the other, but also the relative fault of UniPoint and Tamarack, as well as any relevant equitable considerations, subject to the limitation that in any event the aggregate contribution of all Indemnified Persons to all losses, claims, liabilities, damages and expenses shall not exceed the amount of fees actually received by Tamarack pursuant to this Agreement.

Limitation of Liability. No Indemnified Person shall have any liability to UniPoint in connection with the services rendered pursuant to this Agreement, except for any liability for losses, claims, damages or liabilities finally judicially determined to have resulted from such Indemnified Person's gross negligence or willful misconduct. In the event of a



Tamarack Associates, Inc.

finding of gross negligence or willful misconduct, any liability of Tamarack Associates, Inc. shall be limited to the amount of fees paid Tamarack under this Agreement.

Notice of Indemnification. If indemnification is to be sought hereunder by any Indemnified Person, then such Indemnified Person shall promptly notify UniPoint of the threat or commencement of any action or proceeding in respect thereof, provided, however, that the failure so to notify UniPoint shall not relieve UniPoint from any liability that it may otherwise have to such Indemnified Person (except to the extent such failure materially and adversely affects UniPoint's ability to defend such action or proceedings). Following such notification, UniPoint may elect in writing to assume the defense of such action or proceeding, and, upon such election, it shall not be liable for any legal costs subsequently incurred by such Indemnified Person (other than reasonable costs of investigation) in connection therewith, unless:

- (a) UniPoint has failed to provide counsel of recognized standing and reasonably satisfactory to such Indemnified Person in a timely manner; or
- (b) representation of such Indemnified Person by counsel provided by UniPoint could present such counsel with a conflict of interest.

Settlement of Claims. UniPoint agrees that it will not settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought from UniPoint by any Indemnified Person (whether any Indemnified Person is an actual or potential party to such claim, action, suit or proceeding) unless such settlement, compromise or consent includes an unconditional release of Indemnified Persons hereunder from all liability arising out of such claim, action, suit or proceeding.

Survival of Indemnification, Contribution and Limitation of Liability. The provisions of this Schedule A, in its entirety, shall be in addition to any liability UniPoint may have to any Indemnified Person at common law or otherwise, and shall survive the expiration of the term of this Agreement.

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Tamarack Associates, Inc.

1441 Knightsbridge Drive, Blue Bell PA 19422
Office (215) 616-4537, Cell (215) 527-8950
jpalmer@tamarackassoc.com

March 26, 2013

Mike Holloway
President and CEO
UPH Holdings, Inc.
6500 River Blvd., Building 2, Suite 200
Austin TX 78730

Re: Amendment of the Tamarack Associates, Inc. engagement letter dated March 19, 2013

Dear Mike:

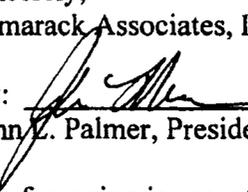
This letter agreement modifies the Tamarack Associates, Inc. engagement agreement entered into on March 19, 2013 by UniPoint Holdings, Inc.

The parties to that agreement hereby agree as follows.

- 1) The references to "UniPoint Holdings, Inc. and UniPoint" in the March 19th letter shall be defined as referring to UPH Holdings, Inc. and all of its subsidiaries: UniPoint Holdings, Inc., UniPoint Enhanced Services, Inc., nWire LLC, Peering Partners Communications LLC, Pac-West Telecom Inc., Tex-Link Communications, Inc., US Net Solutions, Inc., Installnet, Inc., Pac-West Telecom of Virginia, Inc., PWT Services, Inc., and PWT of New York, Inc., all of which shall be referred to as "UniPoint" in this amendment and in the original engagement letter.
- 2) The scope of work shall be expanded to include assisting and advising UniPoint through its bankruptcy filing.
- 3) The fee cap of \$15,000 shall be deleted.

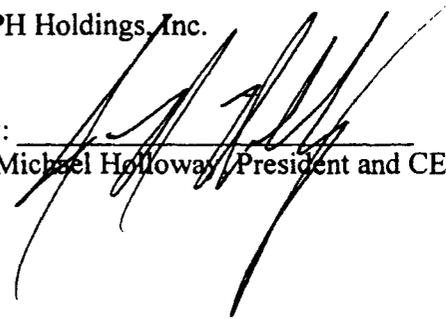
All other provisions of the original agreement shall remain in full force.

Sincerely,
Tamarack Associates, Inc.

By: 
John L. Palmer, President

The foregoing is accepted and agreed to by UPH Holdings, Inc., as of the 26th day of March, 2013.

UPH Holdings, Inc.

By: 
J. Michael Holloway, President and CEO