

Varner, et al. v. Atlas44, LLC, et al.
Case No. CV-2018-053074
Amended Verified Complaint

Exhibit 9

(June 15, 2015 Action by Consent in Writing signed by Nielsen and Gentry)

**ACTION BY CONSENT IN WRITING
IN LIEU OF A MEETING OF
THE BOARD OF MANAGERS
OF ATLAS44, LLC**

Effective as of June 15, 2015

The undersigned, constituting all of the members of the Board of Managers (the "Board") of Atlas44, LLC, a Delaware limited liability company (the "Company"), by consent in writing pursuant to First Amended and Restated Operating Agreement of the Company and the authority contained in Section 18-404(d) of the Delaware Limited Liability Company Act, without the formality of convening a meeting, do hereby adopt, approve, and consent to the resolutions and actions of the Company set forth below:

1. **Offering.**

WHEREAS, the Company desires to undertake a private placement (the "Offering") of an aggregate of \$10.0 million in common units of limited liability company membership interests of the Company (the "Common Units"), all upon the terms and conditions substantially similar to those set forth in a Private Placement Memorandum (the "Offering Memorandum") and pursuant to a subscription agreement and questionnaire (the "Subscription Agreement"), forms of which have been provided to the undersigned; and

WHEREAS, the Board has reviewed the Offering Memorandum and Subscription Agreement, and deems the Offering Memorandum and the Subscription Agreement and the transactions contemplated therein to be advisable and fair to, and in the best interests of, the Company.

NOW, THEREFORE, BE IT RESOLVED, that the Offering, the Offering Memorandum, and the Subscription Agreement be, and each hereby is, approved; and it is further

RESOLVED, that the Chief Executive Officer be and hereby is authorized and empowered, for and on behalf of the Company, to execute and deliver any instruments, documents, agreements, certificates, and consents required under the terms of, contemplated by, or necessary to effect the Offering, including without limitation the Offering Memorandum and the Subscription Agreement, together with such amendments, modifications, changes, and supplements thereto as shall be deemed by the Chief Executive Officer, to be necessary or appropriate, in his reasonable discretion and not inconsistent with these resolutions, to effect the transactions therein authorized; and it is further

RESOLVED, that the Chief Executive Officer be and hereby is authorized and empowered, for and on behalf of the Company, to: (a) execute and deliver and any and all applications, agreements, documents, instruments, and certificates, including amendments to any of the foregoing, necessary or appropriate in connection with the Offering; (b) incur reasonable costs and expenses in connection with the Offering; and (c) do any and all acts and things that he deems, in his reasonable discretion, necessary or appropriate in connection with these resolutions, with the execution of the applications, agreements, documents, instruments, and certificates, including amendments to any of the foregoing, related to the Offering to constitute conclusive proof of the appropriateness of the applications, agreements, documents, instruments, and certificates, including any amendments thereto, related to the Offering; and it is further

RESOLVED, that the Company approves, in connection with the Offering, (a) admitting Common Members (as such term is defined in the Operating Agreement); (b) issuing Common Units to the Common Members of the Company; and (c) doing any and all acts and things, that the Chief Executive Officer deems in his reasonable discretion, necessary or appropriate in connection with these resolutions and with the issuance of additional Common Units; and it is further

RESOLVED, that the Chief Executive Officer be and hereby is, authorized and empowered, for and on behalf of the Company, to take any and all actions, not inconsistent with these resolutions, that he deems necessary or advisable in order to effect the registration or qualification (or exemption therefrom) of the Common Units for issuance, offer, or sale under the securities laws of the United States of America, any of the states or jurisdictions of the United States of America, and any foreign countries or jurisdictions and in connection therewith to execute, acknowledge, verify, deliver, or file any applications, reports, consents to service of process, appointments of attorneys to receive process, and other papers and instruments which may be required under such laws, and to take any and all further action which he may deem necessary or advisable in order to maintain any such registration or qualification (or exemption therefrom) for as long as he deems necessary or as required by law.

2. **2015 Restricted Unit Plan.**

WHEREAS, the Company proposes to adopt a plan in order to advance the interests of the Company by providing an additional incentive to attract and retain qualified and competent persons who provide services to the Company, and upon whose efforts and judgment the success of the Company is largely dependent; and

WHEREAS, the Company desires to adopt such a plan only upon the closing of a sale of equity securities of the Company during the Company's proposed Offering to be commenced during June 2015 at a price that reflects a pre-money valuation of the Company of not less than \$35.0 million and that results in net proceeds to the Company of not less than \$1.0 million (the "Condition to Adoption").

NOW, THEREFORE, BE IT RESOLVED, that the 2015 Restricted Unit Plan in, or substantially in, the form attached hereto as Exhibit A (the "Restricted Unit Plan"), be and hereby is approved in all respects, subject in all respects to the satisfaction of the Condition of Adoption; and it is further

RESOLVED, that the Company accepts and agrees to the terms of the form of Restricted Unit Agreement, attached hereto as Exhibit B, to be executed by each current and future holder of Restricted Units (as defined by the Restricted Unit Plan) (the "Restricted Unit Agreement"), in such form as the Chief Executive Officer, with the advice of the Company's counsel and accountants, deems appropriate, in his reasonable discretion and not inconsistent with these resolutions, together with such amendments, modifications, changes, and supplements thereto as shall be deemed by the Chief Executive Officer, with the advice of the Company's counsel and accountants, to be necessary or appropriate, in his reasonable discretion and not inconsistent with these resolutions; and it is further

RESOLVED, that the Chief Executive Officer be and hereby is authorized and empowered to make such changes in, deletions from, or additions to, the Restricted Unit Plan, not contrary to the general tenor thereof, as he shall approve in his reasonable discretion and not inconsistent with these resolutions; and it is further

RESOLVED, that the Company hereby reserves for issuance 500,000 Common Units to be issued pursuant to the Restricted Unit Plan; and it is further

RESOLVED, that the officers of the Company, or any one or more of them, be and they hereby are, authorized, empowered and directed to execute and deliver such other and further documents, agreements, certificates, or instruments in the form required by law, and to take all steps and perform all such acts and things as may appear in their discretion to be necessary or advisable to effectuate and consummate the Restricted Unit Plan, any form of Restricted Unit Agreement, and all transactions contemplated therein, according to the terms and provisions thereof and as may be required by law.

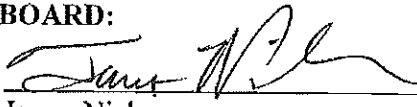
3. General.

RESOLVED, that in addition to and without limiting the foregoing, the officers of the Company, or any one or more of them, be and hereby are, authorized, empowered, and directed to take, or cause to be taken, such further action, and to execute and deliver, or cause to be delivered, for and in the name and on behalf of the Company, all such instruments and documents as such officer may deem appropriate in order to effect the purpose and/or intent of the foregoing resolutions (as conclusively evidenced by the taking of such action or the execution and delivery of such instruments, as the case may be) and all actions heretofore taken by the Company, the Board, officers, and agents of the Company in connection with the subject of the foregoing recitals and resolutions be, and

hereby is, approved, ratified, and confirmed in all respects as the act and deed of the Company.

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BOARD:



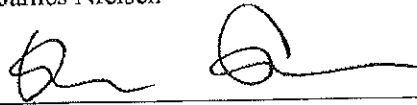
James Nielsen

Evan Gentry

CONSTITUTING ALL OF THE MEMBERS OF
THE BOARD OF MANAGERS OF ATLAS44,
LLC

BOARD:

James Nielsen

Two handwritten signatures in black ink are positioned above a horizontal line. The signature on the left is more compact and stylized, while the one on the right is more elongated and fluid.

Evan Gentry

CONSTITUTING ALL OF THE MEMBERS OF
THE BOARD OF MANAGERS OF ATLAS44,
LLC