



**State of New Hampshire  
Department of Revenue Administration**

109 Pleasant Street  
PO Box 457, Concord, NH 03302-0457  
Telephone 603-230-5005  
www.nh.gov/revenue



John T. Beardmore  
Commissioner

July 15, 2013

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Revenue Administration ("Department") to enter into a contract with Premiere Credit of North America, LLC, (Vendor Code 249826), Indianapolis, IN, to perform Debt Collection Litigation Services for debts accumulated by out-of-state taxpayers for the Department, effective upon Governor and Council approval for one year from date of approval. This contract incurs no outlay of State funds as Premiere Credit is working on a percentage rate of recovery basis. As a first placement debt collector in the debt collection process, Premiere Credit will retain eighteen percent (18%) from any funds that are recovered without litigation, as a second placement debt collector in the collection process, Premiere Credit will retain twenty-three percent (23%) of funds collected without litigation; if litigation is required and approved by the Department, Premiere Credit shall retain thirty-five percent (35%).

**EXPLANATION**

The Department of Revenue Administration seeks the assistance of Premiere Credit, LLC, to, upon request, perform services of collection, skip tracing, asset location and any and all litigation concerning the collection of any debt as authorized and referred by the DRA. Details will be provided at the referral of a case. Premiere Credit, LLC will be required to acknowledge that the details of the debts and case referrals are confidential. If the DRA discloses any confidential information to Premiere Credit, LLC during the course of Premiere Credit, LLC performing its services Premiere Credit, LLC shall take all reasonable precautions to maintain the confidentiality of such confidential information. Premiere Credit, LLC shall be legally bound by RSA 21-J:14. All personnel of Premiere Credit, LLC performing services under this contract shall be knowledgeable of RSA 21-J:14. Premiere Credit, LLC shall employ all collection activities necessary to collect accounts referred to them by the Department. The Department is authorized to enter into such contracts under RSA 21-J:3, XXV I added by 2005; 166:1, effective June 21, 2005.

Collections activity will encompass all tax types, such as but not limited to, Interest and Dividends Tax, Business taxes and Meals and Rentals tax. Currently, over \$7,500,000 in outstanding debt is owed by taxpayers across 35 states and Canada. Historically, a tax notice has been issued by the Department, a forty-five day letter has been sent by the Department, a demand for payment letter has been sent by the Department and telephone follow-up has been made by the Department, as well as tax lien recording, where in-state property is available. This internal Department protocol will continue in order to effectively

TDD Access: Relay NH 1-800-735-2964

*Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.*



work accounts on a first responder basis to ensure the best rate of recovery. Unresponsive accounts will then be turned over to the Department's first placement debt collector (Account Control Technologies), if account resolution is not made with first placement debt collection, unresponsive accounts will then be turned over to Premiere Credit, LLC for further collection efforts.

Premiere Credit, LLC shall maintain records sufficient to track audit collection activities on each account.

The contract may be extended for subsequent one-year periods under the same terms, conditions and pricing structure upon the mutual agreement between Premiere Credit, LLC and the Commissioner of the Department of Revenue Administration or designee and with the approval of the Governor and Council, and not to exceed a total of five (5) years.

An RFB was posted on the State of New Hampshire Administrative Services' Purchase and Property website to solicit bids for this service. The posting was open for twenty-six (26) days. As questions from applicants were received both the questions and the answers were posted immediately for public access viewing. Four (4) bidders provided a bid proposal. Attached hereto as Schedule A is the list of all bidders. The bid evaluation team included: Margaret Fulton, Assistant Commissioner; Philip Lawrence, Director of Collections; Kathryn Skouteris, Revenue Counsel. This team was assembled based upon each having an area of expertise in collections, collections law within New Hampshire and/or management/administrative expertise of managing a third party collection agency.

We respectfully request your consideration regarding this matter.

John T. Beardmore



Commissioner

Attachments



SCHEDULE A

Premiere Credit of North America, LLC  
Indianapolis, IN

Automated Collection Services, Inc (ACSI)  
Nashville, TN

EOS CCA  
Norwell, MA

HS Financial Group, LLC  
Westlake, OH



**SCHEDULE C**

**Contract Purpose  
Scoring Detail**

**Out of State Dept Collection Services - Litigation  
FINAL RANK**

|   |                |                      |                          |                        |              |
|---|----------------|----------------------|--------------------------|------------------------|--------------|
| <b>Premiere Credit of<br/>North America, LLC<br/>Indianapolis, IN</b> | 1              |                      |                          |                        |              |
| <b>RFP Criteria</b>   | <b>Max Pts</b> | <b>Phil Lawrence</b> | <b>Kathryn Skouteris</b> | <b>Margaret Fulton</b> | <b>Total</b> |
| Experience  | 30             | 25                   | 28                       | 30                     | 27.7         |
| Program Structure   | 50             | 40                   | 45                       | 50                     | 45           |
| Budget & Justification  | 15             | 15                   | 15                       | 15                     | 15           |
| Format  | 5              | 5                    | 5                        | 5                      | 5            |
| <b>Total</b>  | <b>100</b>     | <b>85</b>            | <b>93</b>                | <b>100</b>             | <b>92.7</b>  |

|   |                |                      |                          |                        |              |
|---|----------------|----------------------|--------------------------|------------------------|--------------|
| <b>Automated Collection<br/>Services, Inc. (ACSI)<br/>Nashville, TN</b> | 2              |                      |                          |                        |              |
| <b>RFP Criteria</b>   | <b>Max Pts</b> | <b>Phil Lawrence</b> | <b>Kathryn Skouteris</b> | <b>Margaret Fulton</b> | <b>Total</b> |
| Experience  | 30             | 15                   | 20                       | 10                     | 15           |
| Program Structure   | 50             | 40                   | 40                       | 35                     | 38.3         |
| Budget & Justification  | 15             | 15                   | 10                       | 10                     | 11.7         |
| Format  | 5              | 5                    | 5                        | 5                      | 5            |
| <b>Total</b>  | <b>100</b>     | <b>75</b>            | <b>75</b>                | <b>60</b>              | <b>70</b>    |

|                                |                |                      |                          |                        |              |
|--------------------------------|----------------|----------------------|--------------------------|------------------------|--------------|
| <b>EOS CCA<br/>Norwell, MA</b> | 3              |                      |                          |                        |              |
| <b>RFP Criteria</b>            | <b>Max Pts</b> | <b>Phil Lawrence</b> | <b>Kathryn Skouteris</b> | <b>Margaret Fulton</b> | <b>Total</b> |
| Experience                     | 30             | 20                   | 25                       | 20                     | 21.7         |
| Program Structure              | 50             | 0                    | 0                        | 20                     | 6.7          |
| Budget & Justification         | 15             | 0                    | 0                        | 0                      | 0            |
| Format                         | 5              | 0                    | 5                        | 5                      | 3.3          |
| <b>Total</b>                   | <b>100</b>     | <b>20</b>            | <b>30</b>                | <b>45</b>              | <b>31.7</b>  |

|  |                |                      |                          |                        |              |
|--|----------------|----------------------|--------------------------|------------------------|--------------|
| <b>HS Financial Group LLC<br/>Westlake, OH</b> | 4              |                      |                          |                        |              |
| <b>RFP Criteria</b>                            | <b>Max Pts</b> | <b>Phil Lawrence</b> | <b>Kathryn Skouteris</b> | <b>Margaret Fulton</b> | <b>Total</b> |
| Experience                                     | 30             | 25                   | 15                       | 20                     | 20           |
| Program Structure                              | 50             | 40                   | 35                       | 20                     | 31.7         |
| Budget & Justification                         | 15             | 10                   | 5                        | 5                      | 6.7          |
| Format   | 5              | 5                    | 5                        | 3                      | 4.3          |
| <b>Total</b>                                   | <b>100</b>     | <b>80</b>            | <b>60</b>                | <b>48</b>              | <b>62.7</b>  |





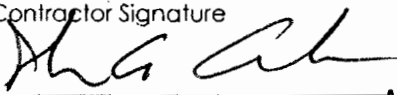
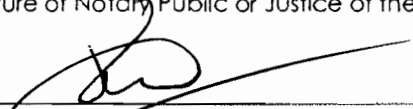

Subject: Debt Collection Litigation Services

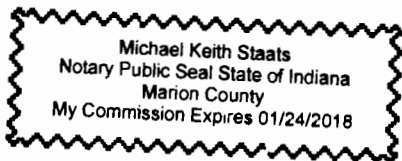
**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

|  |                    |   |                             |
|--|--------------------|---|-----------------------------|
| 1.1 State Agency Name<br>Department of Revenue Administration  |                    | 1.2 State Agency Address<br>109 Pleasant Street<br>Concord, NH 03301                      |                             |
| 1.3 Contractor Name<br>Premiere Credit of North America, LLC   |                    | 1.4 Contractor Address<br>2002 Wellesley Blvd<br>Indianapolis, IN 46219                   |                             |
| 1.5 Contractor Phone Number<br>317-987-6627  | 1.6 Account Number | 1.7 Completion Date   | 1.8 Price Limitation<br>N/A |
| 1.9 Contracting Officer for State Agency<br>Philip Lawrence,   |                    | 1.10 State Agency Telephone Number<br>603-230-5900  |                             |
| 1.11 Contractor Signature<br>   |                    | 1.12 Name and Title of Contractor Signatory<br>Shane Archer, Vice President of Operations |                             |
| 1.13 Acknowledgement: State of <u>Indiana</u> , County of <u>Marion</u><br>On <u>7-12-13</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12. |                    |   |                             |
| 1.13.1 Signature of Notary Public or Justice of the Peace<br>   |                    |   |                             |
| 1.13.2 Name and Title of Notary or Justice of the Peace<br><u>Michael Keith Staats</u>   |                    |   |                             |
| 1.14 State Agency Signature<br>   |                    | 1.15 Name and Title of State Agency Signatory<br>John T. Beardmore, Commissioner          |                             |
| 1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)<br>By: _____ Director, On: _____   |                    |   |                             |
| 1.17 Approval by the Attorney General (Form, Substance and Execution)<br>By: <u>M.K. Brun</u> On: <u>8/1/13</u>  |                    |   |                             |
| 1.18 Approval by the Governor and Executive Council<br>By: _____ On: _____   |                    |   |                             |





**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.** Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.



**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the

Contractor Initials SL  
Date 7/12/13



Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

Contractor Initials  
Date

ST  
7/12/14





**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES

EXHIBIT A

1. INTRODUCTION

The Department of Revenue Administration (Department) seeks to enter into a contract with Premiere Credit of North America, LLC, (Contractor) an Indiana company, to perform debt collection litigation services for debts accumulated by out-of-state taxpayers for the Department, effective upon Governor and Council approval for one year from date of approval.

The Department seeks assistance from Contractor in debt collection of delinquent out-of-state taxpayers. The Department is authorized to enter into such contracts under RSA 21-J:3, XXVII added by 2005; 166:1, effective June 21, 2005. Although the Department has excellent legal tools available to it to perform appropriate collections activity, it lacks adequate legal means outside of its jurisdictional limits.

2. TERM

The term of the contract shall commence upon the date of Governor and Council approval and shall terminate one year from the date of approval, unless terminated earlier. The Department shall have the right to terminate the contract at any time by giving the Contractor a thirty (30) day written notice.

The contract may be extended for subsequent one-year periods under the same terms, conditions and pricing structure upon the mutual agreement between the Contractor and the Commissioner of the Department or designee and with the approval of the Governor and Council and not to exceed a total of five (5) years.

Individual accounts for which no collection activity is possible or all available collection and litigation methods have been exhausted may be returned with the prior approval of the Department. For these accounts, the Contractor shall not be entitled to payment beyond fees previously retained for any partial debt recovery that may have occurred.

Page 1 of 6

Premiere Credit of North America, LLC

Initial and date all pages.

Initials   *PC*   Date   *7/12/23*



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES**

3. CONTRACT ADMINISTRATION

3.1 CONTRACTOR CONTRACT MANAGER

The Contractor Contract Manager who shall be responsible for all contractual authorization and administration under the contract is:

Contract Manager: Shane Archer  
Title: Vice President, Operations  
Address: 2002 Wellestey Blvd.  
Indianapolis, IN 46219  
Telephone: 317-917-4850

3.2 STATE CONTRACT MANAGER

Contract Manager: Philip Lawrence  
Title: Director, Collections Division  
Address: 109 Pleasant St.  
Concord, NH 03301  
Telephone: 603-230-5900

4. SCOPE OF WORK

The Contractor shall provide a full range of services to collect and litigate on delinquent accounts of taxpayers residing out-of-state or with assets located out-of-state. Once delinquent accounts are placed with the Contractor, the Contractor shall provide services necessary to collect delinquent funds.

Such efforts shall include activities typically associated with debt collection services such as: asset investigation and location, skip tracing, debtor negotiation, debtor communication through various media, documentation and reporting of debtor interaction, escalation of collection activities including placing liens on real and personal property, as well as litigation services when appropriate and approved by the Department.

Additionally, the Contractor and Contractor's employees and subcontractors shall acknowledge and be subject to the terms of confidentiality under RSA 21-J:14, as well as any other statute or regulation concerning collection activity in the jurisdictions in which debt collection is conducted.

The Contractor shall maintain records sufficient to track audit collection activities on each account.

Page 2 of 6  
Premiere Credit of North America, LLC  
Initial and date all pages:  
Initial SA Date 7/17/2



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES

EXHIBIT B

1. FEE SCHEDULE

As payment for services, the Contractor, as a first placement debt collector in the debt collection process, Premiere Credit will retain eighteen percent (18%) from any funds that are recovered without litigation, as a second placement debt collector in the collection process, Premiere Credit will retain twenty-three percent (23%) of funds collected without litigation, if litigation is required and approved by the Department, Premiere Credit shall retain thirty-five percent (35%).

2. PAYMENT SCHEDULE

Collected funds shall be remitted to the Department monthly within thirty (30) days of collection or upon collecting a cumulative total of \$5,000, which ever shall occur first. The Contractor shall remit collected funds with statements to the Department in a format currently in use by the Department. The statements shall include a breakdown of amounts collected, including tax type, collection fees, tax, interest, penalties and bank or lien fees, to facilitate automatic posting of the remittance.

Page 3 of 6

Premiere Credit of North America, LLC

Initial and date all pages:

Initial PA Date 9/12/13





STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES

EXHIBIT C  
Special Provisions

1. Authority: The work to be performed shall be carried out in cooperation and under the direction of the Department. The business roles of the Department and the Contractor shall be that of client and attorney, respectively.
2. Referral of an Account: The Contractor agrees that all case referrals by the Department to the Contractor shall remain the Contractor's responsibility unless specifically removed from the case in writing by the Department or until the Contractor determines that they are unable to collect. This condition shall remain in effect during the term of the contract; however, all casework shall be done in accordance with the terms, conditions and provisions of this agreement.
3. Acknowledge Receipt of an Account: The Contractor agrees to acknowledge each account placed by the Department within thirty (30) days.
4. Documentation: The Contractor shall furnish the Department with copies of any judgment(s), copies of any statement(s) of costs filed, any transcript(s) of judgment debtor examinations or post-judgment interrogatories or deposition transcript(s) and other legal pleadings. Other material, reports and correspondence prepared under this agreement shall be available upon the Department's request or as agreed to.
5. Scope of Collection Activity: The Contractor shall perform all aspects of collection, including without limitation asset investigation, skip tracing and debtor negotiation as needed to successfully resolve each account that has been referred. The Contractor must have access to the latest skip tracing methods and must demonstrate a progressive degree of effort on smaller dollar amounts as well as larger dollar amounts.
6. Status Reports: The Contractor shall provide the Department with monthly reports reflecting the status of all accounts referred to the Contractor. In addition, the Contractor shall notify the Department of any significant event pertaining to an account within 48 hours of the event's occurrence.
7. Procedures and Controls for Confidentiality: The Contractor shall be legally bound by RSA 21-J:14 and shall establish and maintain procedures and controls acceptable to the Department to ensure full compliance with the confidentiality requirements of RSA 21-J:14.
8. Conflicts of Interest: At the time the Department refers an account to the Contractor, the Contractor shall advise the Department of any perceived conflict and whether the conflict is remote or disqualifying. The Contractor may decline to accept the referral of any account that the Contractor believes to be a disqualifying conflict of interest.
9. Confidential Communications: Communications between the Contractor and the Department shall be that of attorney and client and therefore, shall be confidential and shall have all privileges and immunities afforded to such communication. Except as required by law, no confidential communication shall be disclosed to any public agency, insurance company, rating organization, contractor, vendor or other entity or individual without the prior consent of the Department.
10. Debtor Communications: The Contractor shall respond to all requests and inquiries from taxpayer-debtors in a courteous and professional manner within five (5) business days. The Contractor

Page 4 of 6  
Premiere Credit of North America, LLC  
Initial and date all pages:  
Initial SA Date 3/10/11



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES**

shall ensure that the debtor understands that collection is on behalf of the State of New Hampshire Department of Revenue Administration.

11. **Separate Records:** The Contractor shall maintain books and records sufficient to track and audit its collection activities on behalf of the Department. Upon at least three (3) business days notice, the Contractor shall permit the Department auditors full access to Contractor's facilities and books and records to ensure compliance with the terms of this Agreement and all applicable laws, rules and regulations.
12. **Collection Remittance and Statements:** Collected funds shall be remitted to the Department monthly within thirty (30) days of collection or upon collecting a cumulative total of \$5,000, whichever shall occur first. The Contractor shall remit collected funds with statements to the Department in a format currently in use by the Department. The statements shall include a breakdown of amounts collected, including tax type, collection fees, tax, interest, penalties and bank or lien fees to facilitate automatic posting of the remittance.
13. **Clearance of Debtor's Payment:** The Contractor agrees that all payments received by negotiable instruments must be deposited and held by the Contractor until the payment has cleared. The Contractor shall not endorse any check as paid in full or provide the debtor a receipt as paid in full without verifying the current unpaid balance with the Department.
14. **Previously Placed Accounts:** Some accounts may have been previously placed with a collection agency. The Contractor may tier its bid based upon previous placement of the account if desired.
15. **Delinquent Accounts:** The Contractor agrees to accrue interest, penalties and attorney fees or other additional charges on delinquent accounts in accordance with statute and as specified by the Department when accounts are referred or as additional charges accrue.
16. **Compromise or Settle Account:** The Contractor shall not compromise or settle any account without the approval of the Department. Unauthorized compromise or settlement by the Contractor of any account for less than the entire amount due, accrued interest, penalties, attorney fees and other costs or applicable charges will render the Contractor liable.
17. **Individual Debtor Status Report:** The Contractor will furnish individual account status reports within three (3) business days of a request from the Department. Status reports shall include the debtor name, account number, initial amount of the debt, amount of payments to date, present balance and status of the account.
18. **Review and Audit of Accounts:** The Department shall have the right to review or audit particular accounts with the Contractor at any time during regular business hours of the Contractor.
19. **Applicable Laws and Regulations:** The Contractor agrees to become familiar with and abide by all applicable State and/or Federal statutes and/or regulations and the Department policies and procedures governing accounts and the collections of accounts.
20. **Suspension of an Account:** The Contractor shall agree to suspend action, either temporarily or permanently, on any account upon receipt of notification by the Department.
21. **Reduced or Canceled Accounts:** In the event an account is reduced or canceled by the Department, no collection fee shall be due to the Contractor for the amount of the reduction or cancellation.
22. **Governor and Council Approval:** All contracts between Contractor and the Department shall be approved by the Governor and Council.

Page 5 of 6

Premiere Credit of North America, LLC

Initial and date all pages:

Initial JA Date 7/12/12



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF REVENUE ADMINISTRATION  
DEBT COLLECTION LITIGATION SERVICES**

23. The Contractor shall be able to collect debts, practice law and institute lawsuits on behalf of the Department in every state through in-house counsel, sub-contracted services or *pro hac vice* arrangements.
24. The Contractor shall provide information relative to tax types and jurisdictions for which the agency fee may be collected in addition to the balance due the State.
25. The Contractor shall possess errors and omissions and malpractice insurance and shall indemnify the Department and hold the Department harmless for Contractor collection activities including all legal activities.
26. The Contractor shall have the ability to place a lien on property/assets in every state.
27. The Contractor shall have sufficient personnel available to proceed promptly and simultaneously for the collection of all collection items for the contracted services.
28. The Contractor's personnel shall be trained, qualified and experienced to use acknowledged best practices to services the State's placement using ethical procedures to yield the highest return.
29. The Contractor's personnel shall be knowledgeable of NH RSA 21-J:14, V(f) and shall read, sign and be bound by the Department Confidentiality of Information Policy.
30. The contractor shall have sufficient financial capacity, working capital and other financial, technical and management resources to perform the contract.
31. The Contractor shall commit to a maximum 60-day startup after execution of the contract.
32. The Contractor shall provide monthly reports detailing placement and recovery by month placed as well as recovery by period collected.
33. The Contractor shall provide a status report listing accounts under payment arrangement, legal accounts and exhausted accounts.
34. The Contractor must be able to accept an existing data transfer format and provide a secure FTP site for all data exchange.
35. The Contractor shall employ IT staff with the skill and experience to support the data exchange requirements of the contract.
36. The Contractor shall have established collection procedures providing for escalating Debtor contacts.
37. The Contractor shall have the ability to load and maintain data on placed accounts with credit reporting agencies in a manner compliant with FCRA.
38. The Contractor shall be able to maintain all funds in a depository within the State and transfer money electronically to the Department and Department of Treasury.
39. The Contractor shall be certified for information security by an acceptable accreditation source.
40. The Contractor shall submit documentation to support its conformity to these specifications.

Page 6 of 6

Premiere Credit of North America, LLC

Initial and date all pages:

Initial SA Date 7/12/10



State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Premiere Credit of North America, LLC, a(n) Indiana limited liability company registered to do business in New Hampshire on December 27, 2000. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 1<sup>st</sup> day of July, A.D. 2013

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State





**PREMIERE CREDIT**  
*of North America, LLC*

July 1, 2013

Laurie Dyer  
State of New Hampshire  
Department of Revenue  
109 Pleasant Street  
Concord, NH 03301

RE: Authorized Signatories for Premiere Credit of North America, LLC

Dear Ms. Dyer:

This letter and a copy of Premiere Credit's Operating Agreement are respectfully submitted to your attention to provide evidence of the authority of individuals within our organization who are authorized to contractually bind the agency.

| <b>Authorized Signatory Name</b> | <b>Title</b>                          |
|----------------------------------|---------------------------------------|
| Robert R. Meck                   | President and Chief Executive Officer |
| Feroze Waheed                    | Chief Financial Officer               |
| Shane A. Archer                  | Vice President                        |
| Harold Wickline                  | Vice President                        |

I certify that I am the President and Chief Executive Officer and as an authorized officer of Premiere Credit, I confirm that the names of the individuals identified above are current as of the date of this letter. I further attest that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the State of New Hampshire on behalf of Premiere Credit.

Sincerely,



Robert R. Meck  
President and Chief Executive Officer





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/28/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


|  |  |        |
|--|--|--------|
| PRODUCER<br>American Agency, Inc.<br>5851 Cedar Lake Road<br>P O Box 16527<br>Minneapolis MN 55416 | CONTACT NAME: Jeanne Glass   |        |
|  | PHONE (A/C, No, Ext): (952) 545-1230 FAX (A/C, No): (952) 593-8733<br>E-MAIL ADDRESS: jeanneg@americanagencymn.com |        |
| INSURED<br>Premiere Credit of North America, LLC<br>2002 Wellesley Blvd.<br>Indianapolis IN 46219  | INSURER(S) AFFORDING COVERAGE  | NAIC # |
|  | INSURER A: Phoenix Insurance Co  | 25623  |
|  | INSURER B: Charter Oak Fire Ins Co   | 25615  |
|  | INSURER C: Travelers Prop Cas Co of Amer   | 25674  |
|  | INSURER D: Colony Insurance Company  | 39993  |
|  | INSURER E:   |        |
|  | INSURER F:   |        |

COVERAGES CERTIFICATE NUMBER: 13/14-Prem Cr-All Lines REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE   | ADDL INSR   | SUBR WVD | POLICY NUMBER        | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS   |
|----------|---|---|----------|----------------------|-------------------------|-------------------------|--|
| A        | <b>GENERAL LIABILITY</b>  |   |          | Y630-1314M380-PHX-13 | 4/1/2013                | 4/1/2014                | EACH OCCURRENCE \$ 1,000,000   |
|          | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY  |   |          |                      |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000                                     |
|          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                            |   |          |                      |                         |                         | MED EXP (Any one person) \$ 5,000  |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:  |   |          |                      |                         |                         | PERSONAL & ADV INJURY \$ Excluded  |
|          | <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |   |          |                      |                         |                         | GENERAL AGGREGATE \$ 2,000,000   |
|          |   |   |          |                      |                         |                         | PRODUCTS - COMP/OP AGG \$ 2,000,000  |
| B        | <b>AUTOMOBILE LIABILITY</b>   |   |          | 810-1314M380-COF-13  | 4/1/2013                | 4/1/2014                | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000   |
|          | <input checked="" type="checkbox"/> ANY AUTO  |   |          |                      |                         |                         | BODILY INJURY (Per person) \$  |
|          | <input type="checkbox"/> ALL OWNED AUTOS  | <input type="checkbox"/> SCHEDULED AUTOS            |          |                      |                         |                         | BODILY INJURY (Per accident) \$  |
|          | <input checked="" type="checkbox"/> HIRED AUTOS   | <input checked="" type="checkbox"/> NON-OWNED AUTOS |          |                      |                         |                         | PROPERTY DAMAGE (Per accident) \$  |
|          |   |   |          |                      |                         |                         | \$   |
| C        | <input checked="" type="checkbox"/> UMBRELLA LIAB   | <input checked="" type="checkbox"/> OCCUR           |          | CUP-1314M380-TIL-13  | 4/1/2013                | 4/1/2014                | EACH OCCURRENCE \$ 10,000,000  |
|          | <input type="checkbox"/> EXCESS LIAB  | <input type="checkbox"/> CLAIMS-MADE                |          |                      |                         |                         | AGGREGATE \$ 10,000,000  |
|          | <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0                           |   |          |                      |                         |                         | \$   |
| C        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>  |   |          | YJUB-2527N61-8-13    | 4/1/2013                | 4/1/2014                | <input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                               | <input type="checkbox"/> Y/N                        | N/A      |                      |                         |                         | E.L. EACH ACCIDENT \$ 500,000  |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below  |   |          |                      |                         |                         | E.L. DISEASE - EA EMPLOYEE \$ 500,000  |
|          |   |   |          |                      |                         |                         | E.L. DISEASE - POLICY LIMIT \$ 500,000   |
| D        | <b>Errors &amp; Omissions</b>   |   |          | EO406868             | 4/1/2013                | 4/1/2014                | \$5,000,000 each claim \$250,000 Ret   |
|          | Primary Policy  |   |          |                      |                         |                         | \$5,000,000 aggregate Each Claim   |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
E & O-1st Layer Excess-Star Indemnity & Liability Company-4/1/2013-14, #SISIPRX26504613, \$5,000,000 per claim/\$5,000,000 annual aggregate (excess over primary layer). E & O-2nd Layer Excess-AXIS Insurance Company-4/1/2013-14, #MCN 772803/01/2013, \$5,000,000 each/\$5,000,000 total (excess over primary layer and 1st excess layer). Crime-Employee Theft-Federal Insurance Company-4/1/2013-14, #6800-6461, \$2,000,000 Limit, \$25,000 Deductible.

|   |   |
|---|---|
| <b>CERTIFICATE HOLDER</b><br><br>State of New Hampshire<br>Department of Revenue Administration<br>109 Pleasant Street<br>Concord, NH 03301 | <b>CANCELLATION</b><br><br>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|   | AUTHORIZED REPRESENTATIVE<br><br>Max Levy/JMG    |

ACORD 25 (2010/05)  
INS025 (201005) 01

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**SECOND AMENDED AND RESTATED  
OPERATING AGREEMENT FOR  
PREMIERE CREDIT OF NORTH AMERICA, LLC  
AN INDIANA LIMITED LIABILITY COMPANY**

THIS SECOND AMENDED AND RESTATED OPERATING AGREEMENT is effective as of this 27<sup>th</sup> day of October, 2009, (the "Effective Date") by and between Premiere Credit of North America, LLC, an Indiana Limited Liability Company (the "Company") and ECMC Holdings Corporation (the "Member"), the sole Member of the Company.

**Explanatory Statement**

By the Effective Date, the Member had acquired all of the membership interests of the Company held by the other members and became the owner of all issued and outstanding membership interests of the Company. The Member desires to amend and restate the Amended and Restated Operating Agreement of the Company dated September 28, 2007 (the "First Amended and Restated Operating Agreement") as provided herein.

This Second Amended and Restated Operating Agreement, governs the relationship between the Company and the Member, pursuant to the Indiana Business Flexibility Act, as amended from time to time (the "Act").

In consideration of their mutual promises, covenants, and agreements, the parties hereto do hereby promise, covenant, and agree as follows:

**Section 1. Definitions**

Throughout this Second Amended and Restated Operating Agreement, and unless the context otherwise requires, the word or words set forth below within the quotation marks shall be deemed to mean the words which follow them:

**1.1 "Act"** means the Indiana Business Flexibility Act, as amended from time to time.

**1.2 "Affiliate"** means any one or more of the following: (i) a person directly or indirectly controlling, controlled by or under common control with another person; (ii) a person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other person; (iii) any officer, director, manager, member or partner of such person; and (iv) if such other person is an officer, director, manager, member or partner, any company for which such person acts in any such capacity.

**1.3 "Board of Directors"** has the meaning referenced in Section 5.1 below.

**1.4 "Company"** PREMIERE CREDIT OF NORTH AMERICA, LLC, an Indiana Limited Liability Company.

**1.5 "Director"** means any member of the Board of Directors.

**1.6 "Effective Date"** means the effective date of this Agreement as set forth in the preamble hereto.

1.7 **“Managers”** The Directors and Officers shall be considered Managers, as such term is used in the Act, with the Directors and Officers having the authority, responsibilities, duties and limitations on authority as set forth herein.

1.8 **“Member”** means ECMC Holdings Corporation, a Delaware corporation.

1.9 **“Membership Interest”** An ownership interest in the Company, expressed as a percentage of profits or losses of the Company and voting rights that a Member is entitled to as provided herein.

1.10 **“Membership Rights”** The rights of the Member that are derived from this Agreement and the Act based on such Member’s Membership Interest.

1.11 **“Officers”** has the meaning referenced in Section 6.1 below.

1.12 **“Persons”** means individuals, partnerships, corporations, limited liability companies, unincorporated associations, trusts, estates, and any other type of entity.

## **Section 2. Articles of Organization.**

The Company has previously filed its Articles of Organization. In the event of any inconsistency between the Articles of Organization and this Operating Agreement, the terms of the Articles of Organization shall govern.

The purposes for which the Company was formed are: to own and collect certain debts and, specifically student loans, and to conduct any and all other business that LLCs may conduct under the Act as may be approved by the Board of Directors from time to time.

## **Section 3. Term.**

The term of this Operating Agreement shall be co-terminus with the term of the Company. This Operating Agreement shall terminate upon the voluntary or involuntary dissolution of the Company or the expiration of its term as provided in the Articles of Organization.

## **Section 4. Tax and Accounting Matters.**

4.1 **Tax Characterization.** To the fullest extent permitted by applicable federal state or local tax law, the Company will be treated for federal and state income tax purposes as having no separate existence from the Member, and no action inconsistent with such tax characterization of the Company will be taken without express written action by the Member. To the extent the Company may have more than a single member, the members are authorized to make appropriate changes hereto to address the Company’s change in tax status.

4.2 **Records and Accounting Matters.** The Company will keep or cause to be kept the records and books of account of the Company in a manner consistent with good business practices and will make the same available to the Member from time to time for any purpose reasonably related to the Member’s interest in the Company.

**4.3 Capital Contributions.** The Member may make, but will not be required to make, capital contributions to the Company in the future. The Member has no obligation to make any additional Capital Contributions or to fund, advance or lend money to the Company.

**4.4 Allocations.** The Company's profits and losses incurred after the Effective Date will be allocated exclusively to the Member pursuant to the tax characterization described in Section 4.1 hereof, such profits and losses will be treated as realized or incurred directly by the Member for certain tax purposes.

**4.5 Distributions.** Subject to any limitations imposed by the Act and other applicable law, distributions will be made exclusively to the Member at the times and in the aggregate amounts determined by the Board of Directors.

## **Section 5. Board of Directors.**

**5.1 Establishment of Board of Directors; Power of Board of Directors.** The Company will have a board of directors (the "Board of Directors"). Except as contemplated by this Agreement or as prohibited by applicable law, the Member has agreed to delegate all powers and authorities of the Member required for the management of the Company to the Board of Directors and the Officers, as provided below.

**5.2 Composition of Board of Directors.** The Board of Directors shall be comprised of the number of Directors as determined by the Member from time to time (the "Directors"). As of the Effective Date, the number is four. The Member may remove any Director upon notice to such Director and may, by written notice to the Company, replace a Director or appoint a new Director. Directors are not subject to periodic elections. Any director may resign at any time by giving written notice to the Company. Such resignation shall take effect at the date of the receipt of such notice, or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**5.3 Voting Power of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by the Act.

**5.4 Specific Actions Requiring Approval.** The Company will not take, and no Officer, employee or Member for and on behalf of the Company shall have any power or authority to take, any of the following actions unless such act is approved by a majority vote of the Board:

**5.4.1** Amend, repeal or alter the Articles of Organization;

**5.4.2** Merge or consolidate or agree to merge or consolidate the Company or any subsidiary of the Company with or into any other entity;

**5.4.3** Reorganize or recapitalize the Company or any subsidiary of the Company or adopt any plan to do so;

**5.4.4** Issue or sell any securities of, or any option or rights to purchase any equity securities (including securities convertible into equity securities) of the Company or any subsidiary of the Company;

**5.4.5** Acquire any stock or equity securities of any business enterprise (including the Company), enter into any joint venture or invest in or acquire any interest in any business enterprise;

**5.4.6** Sell or agree to sell or otherwise dispose of any substantial assets of the Company;

**5.4.7** Sell or license or agree to sell or license or otherwise dispose of any substantial intellectual property rights of the Company;

**5.4.8** Adopt or enter into any new, or amend any existing employment agreement, employee equity incentive plan or similar agreement or plan;

**5.4.9** Expend capital in excess of \$250,000 either in a single transaction or related group of transactions, or \$500,000 in the aggregate, which are not provided for in the annual operating budget approved by the Board of Directors;

**5.4.10** Create, incur, assume, become liable for, or permit to exist any encumbrance on any property or assets of the Company or indebtedness for borrowed money which is not provided for in the Annual Operating Budget;

**5.4.11** Appoint, remove or change the compensation of any Officer of the Company;

**5.4.12** Give any guarantee or indemnity to secure the liabilities or obligations of any Person;

**5.4.13** Change the nature or scope of the Company's business or commence any new business not being ancillary or incidental to such business;

**5.4.14** Liquidate or dissolve the Company or file for bankruptcy protection;

**5.4.15** Amend or restate the Company's authorized capital or any organizational document;

**5.4.16** Resolve any litigation where the settlement amount exceeds \$50,000.00;

**5.4.17** Waive or relinquish any rights of material value;

**5.4.18** Appoint any committee of the Directors or any local board or delegate any of the powers of the Directors to such committee or local board;



**5.4.19** Take any action or enter into any one transaction of any nature by, with, in the name of or on behalf of the Company and involving (i) an agreement, obligation or duty of the Company which is intended or reasonably expected to take more than twelve (12) months to be fully performed or (ii) property of any nature having a book value, cost or market value, whichever is greater, in excess of \$250,000 or (iii) an amount, liability or obligation of any nature owed by or to the Company in excess of \$500,000;

**5.4.20** Approve any business plans and budgets, including the Annual Operating Budget;

**5.4.21** Appoint or change the accounting firm and/or auditing firm of the Company; or

**5.4.22** Enter into any arrangement, agreement or transaction which could reasonably be expected to materially adversely affect any interest of the Company.

**5.5 Meetings of Board of Directors.**

**5.5.1** The Board of Directors may hold meetings, from time to time at such place and on such dates as the Board of Directors designates. Meetings of the Board of Directors may be called on seven days' notice by any Director or by the Member. If the Board of Directors fails to select a place for the meeting, the meeting will be held at the Company's principal place of business.

**5.5.2** Directors may participate in a meeting of the Board of Directors by conference telephone, video conference or similar communications equipment if all individuals participating can hear each other. Such participation will be deemed to constitute presence in-person at such meeting except where the Director attends solely for the purpose of objecting to the transaction of any business on the grounds the meeting is not lawfully called.

**5.6 Notice of Meeting/Waiver of Notice.** Every notice of a meeting of the Board of Directors may be delivered either personally, by telephone, facsimile or by mail or telegram, and must state the date, time and place of the meeting. A Director may waive notice of a meeting of the Board of Directors. A waiver of notice is effective whether given before, at, or after the meeting, and whether given in writing, orally or by attendance. Attendance by a Director at a meeting is a waiver of notice of that meeting, except where the Director objects at the beginning of the meeting to the transaction of business because the meeting was not lawfully called or convened and does not participate thereafter in the meeting.

**5.7 Action Without a Meeting.** Unless otherwise restricted by the Act, any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, by written action signed by the number of Directors that would be required to take such action at a meeting of the Board of Directors at which all

directors are present. Such action shall be effective on the date on which the last signature is placed on such writing or writings, or such other effective date as is set forth therein.

**5.8 Director Fiduciary Obligations.** A Director of the Company shall perform his or her duties as Director, in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances provided that Directors may take into account the interests of the Member which appointed such Director (or are represented by such Director) in making decisions or otherwise acting on behalf of the Company. In performing his or her duties, a Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in paragraphs (a) and (b) of this Section 5.8; but he or she shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who so performs his or her duties shall not have any liability by reason of being or having been a Director of the Company. Those persons and groups upon whose information, opinions, reports, and statements a Director is entitled to rely are:

(a) One or more employees or other agents of the Company whom the Director reasonably believes to be reliable and competent in the matters presented; and

(b) Counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within such persons' professional or expert competence.

**5.9 Compensation of Directors.** Except as approved by the Member, no Director will be compensated by the Company for any services they may provide, nor will they be entitled to reimbursement for any costs or expenses they incur, in connection with their service as a Director.

## **Section 6. Management by Officers**

**6.1 Appointment of Officers.** The Board of Directors shall appoint a Chief Executive Officer, a President and Chief Operating Officer, a Secretary, a Chief Financial Officer and such other officers as it may from time to time approve (the "Officers").

**6.2 Duties of Officers.** Subject to the limitations and restrictions set forth in this Agreement, including Section 5.4, the Member and the Board of Directors may, and hereby do, delegate to the Officers the authority, right and power to take all actions required for the management of the Company, including, without limitation:

**6.2.1** conduct the Company's day-to-day business (including the expenditure of Company funds) in conformity with the Annual Operating Budget;

**6.2.2** To purchase liability and other insurance to protect the Company's property and business;

**6.2.3** To invest any Company funds temporarily (by way of example but not limitation) in time deposits, short-term governmental obligations, commercial paper, or other investments having a prudently obtainable yield;

**6.2.4** To execute on behalf of the Company all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage, or disposition of the Company's property; assignments; bills of sale; leases; partnership agreements; and any other instruments or documents necessary, in the opinion of the Officers, to the business of the Company;

**6.2.5** To maintain reserves for the purpose of paying property taxes, mortgage installments, and any and all other types of costs or expenses as required or desired by the Officers;

**6.2.6** To contract with other Persons who are not affiliated with an Officer and may cause services;

**6.2.7** To enter into any and all other agreements on behalf of the Company, with any other person or entity for any purpose, in such forms as the appropriate Officer may approve; provided, however, that a Officer may not enter into any agreement which may reasonably obligate the Company to expend sums in excess of a limitation set forth in Section 9.4 unless the approval of Board is first obtained;

**6.2.8** take all action which may be necessary or appropriate for the continuation of the Company's valid existence as a limited liability company under the laws of the State of Indiana and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Member or to enable the Company to conduct the business in which it is engaged; and

**6.2.9** execute and deliver any and all agreements, instruments or other documents as are necessary or desirable to carry out the intentions and purposes of the above duties and powers.

Notwithstanding the foregoing, the delegation of authority in this Section 6.2 may be revoked, amended or qualified, in whole or in part at any time or from time to time by the unanimous vote of the Board (but no such revocation, amendment or qualification will affect the rights of a third party under a contract entered into by the Company pursuant to such delegated authority prior to the revocation thereof).

### **6.3 Tenure of Officers.**

**6.3.1** Tenure. Unless otherwise specified by the Board of Directors at the time of appointment, each Officer will hold office until the earlier of the appointment of a successor, or the resignation, death or removal of that Officer by the Board of Directors;

**6.3.2**      Removal. The Board of Directors may remove any Officer, at any time, with or without cause; provided, however, that nothing contained herein will limit any rights of any Officer under any employment agreement which such Officer may have entered into with the Company.

**6.3.3**      Resignation. Any Officer may resign at any time by giving written notice to the Board of Directors, with such resignation to take effect upon receipt of such notice by the Board of Directors or at such later time as is specified in the notice. Acceptance of the resignation is not necessary to make it effective.

**6.3.4**      Vacancies. A vacancy, however created, in any Officer position will be filled by the majority vote of the Board of Directors.

**6.4**      **Duties of Officers.** An Officer of the Company shall perform his or her duties as an Officer in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing his or her duties, an Officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in paragraphs (a) and (b) of this Section 6.4; but he or she shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who so performs his or her duties shall not have any liability by reason of being or having been an Officer of the Company.

Those persons and groups upon whose information, opinions, reports, and statements an Officer is entitled to rely are:

- (a)      One or more employees or other agents of the Company whom the Officer reasonably believes to be reliable and competent in the matters presented; and
- (b)      Counsel, public accountants, or other persons as to matters which the Officer reasonably believes to be within such persons' professional or expert competence.

**Section 7.      Member.**

**7.1**      **Member.** ECMC Holdings Corporation is the sole member of the Company and holds 100% of the Membership Interests in the Company. All such Membership Interests are voting Membership Interests.

**7.2**      **Additional Members.** New or additional members of the Company may be admitted only by approval of the Member in its sole discretion. Any proposed new or additional member of the Company will be subject to all of the terms and conditions of this Agreement and will be required to adopt this Agreement in order to be admitted as a member of the Company.

**7.3 Title to Company Property.** All property of the Company, whether real or personal, tangible or intangible, will be owned by the Company as an entity, and the Member, individually, will not have any direct ownership interest in such property.

**7.4 Transfer and Assignment of Membership Interests.** Membership Interests may be transferred or assigned by the Member to any Person to the extent permitted by law and such Person to whom the membership interest has been transferred or assigned will become a Member upon the filing of the instrument of assignment with the records of the Company.

**7.5 Liability of Member.** The Member does not, and will not, have any liability for the obligations or liabilities of the Company except to the extent provided in the Act.

**7.6 Transactions with Member and Affiliates.** To the extent permitted by applicable law, and, unless otherwise provided in this Agreement, the Company is hereby authorized to purchase property and services from, sell property or services to, or otherwise deal with the Member acting on its own behalf, or any Affiliate of the Member.

## **Section 8. Indemnification of Officers and Directors.**

**8.1 Authority of the Board of Directors.** The Company, acting through its Board of Directors or as otherwise provided in this Section 8, shall exercise as fully as may be required or permitted from time to time by the statutes and decisional law of the State of Indiana, including the Act, or by any other applicable rules or principles of law, its power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, wherever brought, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, manager, employee, or agent of the Company, or is or was serving at the request of the Company, as a director, officer, manager, employee, or agent, of another Person, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding.

**8.2 Standard for Indemnification.** Any person described in Section 8.1 may be indemnified by the Company if he or she acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company, and otherwise acted in accordance with the provisions of Indiana Code §23-1-37-8 and, with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful.

**8.3 No Presumptions Resulting From Termination of Actions.** The determination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not establish that the person did not meet the criteria set forth in Section 8.2.

**8.4 Mandatory Indemnification.** To the extent that any such person has been successful on the merits or otherwise in defense of any action, suit, or proceeding

referred to in this Section 8, or in defense of any claim, issue, or matter within this Section 8, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith.

**8.5 Determination.** Any indemnification under Section 8.1, unless ordered by a court, shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the director, officer, manager, employee, or agent of the Company is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 8.2. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who are not parties to such action, suit, or proceeding or (ii) by a majority voted of the Members.

**8.6 Advance Payment.** The expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Company in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the manner provided in Section 8.5 upon receipt of an undertaking by or on behalf of the director, officer, manager, employee or agent of the Company to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Company as authorized in this Section 8.

**8.7 Continuance of Indemnification.** The indemnification provided by this Section 8 shall continue as to a person who has ceased to be a director, officer, manager, employee, or agent of the Company and shall inure to the benefit of the heirs, executors, and administrators of such a person.

**8.8 Not Exclusive Remedy.** The indemnification provided by this Section 8 shall not exclude any other right to which a director, officer, manager, employee or agent of the Company may be entitled under any agreement, vote of Members or disinterested directors, or otherwise, both as to action in official capacity and as to action in another capacity while holding such office, and shall not imply that the Company may not provide lawful indemnification not expressly provided for in this Section 8. Nothing contained in this Section 8 shall affect any rights to indemnification to which Company personnel other than directors, officers, managers, employees or agents of the Company may be entitled by contract or otherwise under law.

**8.9 Insurance.** The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Company, or is or was serving at the request of the Company as a director, officer, manager, employee or agent of another Person against any liability asserted against him or her and incurred by him or her in any such capacity, provided, that no indemnification shall be made under any policy of insurance for any act which could not be indemnified by the Company under this Section 8.

**8.10 Notice of Indemnification.** If, under this Section 8, any expenses or other amounts are paid by way of indemnification, otherwise than by court order or action by the Members, and the Company has more than a single Member, the Company shall, not later than the next meeting of Members unless such meeting is held within three (3) months from the date of such payment, and in any event, within fifteen (15) months from the date of such payment, mail to its Members of record at the time entitled to vote for

the election of directors a statement specifying the persons paid, the amounts paid, and the nature and status of the litigation or threatened litigation at the time of such payment.

**Section 9. Books; Fiscal Year; Audits; Tax Matters.**

Accurate and complete books of account shall be kept by the Officers and entries promptly made therein of all of the transactions of the Company, and such books of account shall be open at all times to the inspection and examination of the Officers and the Member. At the discretion of the Board of Directors, compilation, review, or audit of the Company, may be made as of the closing of each fiscal year of the Company by the accountants selected by the Board of Directors who shall then be engaged by the Company. The Company will prepare and distribute tax information, if required, to the Member within 90 days after the end of each fiscal year. The Member will be responsible for all tax related decisions by the Company.

**Section 10. Notices.**

Any and all notices, offers, acceptances, requests, certifications, and consents provided for in this Agreement shall be in writing and shall be given and be deemed to have been received when personally delivered against a signed receipt or mailed by registered or certified mail, return receipt requested, to the last address which the addressee has given to the Company. The address of the Member is set forth on the signature page to this Agreement, and the Member agrees to notify the Company of any change of address. Upon the receipt of a change in address notice by the Company, the address on the signature page to this Agreement will be deemed to be updated to reflect the address contained in such notice. The address of the Company shall be its principal office.

**Section 11. Additional Members.**

A new Member admitted shall not be entitled to any retroactive allocation of profits or losses to the new Member for that portion of the Company's tax year in which the new Member was admitted.

**Section 12. Dissolution and Termination.**

**12.1 Dissolution.**

(a) The Company shall be dissolved upon the occurrence of any of the following events:

- (i) when the period fixed for the duration of the Company shall expire; or
- (ii) by the written election of the Member.

(b) As soon as possible following the occurrence of any of the events specified in this Section 12.1 effecting the dissolution of the Company, the Company shall execute a statement of intent to dissolve in such form as shall be prescribed in the Indiana Secretary of State.

**12.2 Filing of Statement of Intent to Dissolve.**

Duplicate originals of the statement of intent to dissolve shall be delivered to the Indiana Secretary of State.

### **12.3 Effect of Filing of Dissolving Statement.**

Upon the filing with the Indiana Secretary of State of a statement of intent to dissolve, the Company shall cease to carry on its business, except insofar as may be necessary for the winding up of its business, but its separate existence shall continue until articles of dissolution have been filed with the Secretary of State or until a decree dissolving the Company has been entered by a court of competent jurisdiction.

### **12.4 Distribution of Assets upon Dissolution.**

(a) In settling accounts after dissolution, the assets of the Company shall be reduced to cash and distributed in the following order:

- (i) To creditors, including the Member if it is a creditor, to the extent otherwise permitted by law, in satisfaction of liabilities of the Company other than liabilities for distributions to the Member under the Act; and
- (ii) The balance, if any, to the Member.

**12.5 Articles of Dissolution.** When all debts, liabilities, and obligations have been paid and discharged or adequate provision has been made therefore and all of the remaining property and assets have been distributed to the Member, articles of dissolution shall be executed in duplicate and verified by the person signing the articles, which articles shall set forth the information required by the Act.

### **12.6 Filing of Articles of Dissolution.**

(a) Duplicate originals of such articles of dissolution shall be delivered to the Indiana Secretary of State.

(b) Upon the filing of the articles of dissolution, the existence of the Company shall cease, except to the purpose of suits, other proceedings, and appropriate action as provided in the Act. The Directors shall thereafter be agents for the Member and creditors of the Company and as such shall have authority to distribute any Company property discovered after dissolution, convey real estate, and take such other action as may be necessary on behalf of and in the name of the Company.

**12.7 Directors' Responsibility.** Upon dissolution, the Member shall look solely to the assets of the Company for the return of its capital contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of the Member, the Member shall have no recourse against a Director or Manager. The winding up of the affairs of the Company and the distribution of its assets shall be conducted exclusively by the Directors (or by the Officers if such responsibility is delegated to the Officers by the Board of Directors, who are hereby authorized to take all actions necessary to accomplish



such distribution, including, without limitation, selling any Company assets the Managers deem necessary or appropriate to sell. In the event of removal or resignation of all Directors and the failure to appoint new Directors), the winding up of the affairs of the Company and the distribution of its assets shall be conducted by such Person or Persons as may be selected by the Member, which Persons are authorized to do any and all acts and things authorized by law for these purposes.

### **Section 13. Governing Law.**

It is the intent of the parties hereto that all questions with respect to the construction of this Agreement and the rights, duties, obligations, and liabilities of the parties shall be determined in accordance with the applicable provisions of the laws of the State of Indiana.

### **Section 14. Miscellaneous Provisions.**

**14.1 Inurement.** This agreement shall be binding upon, and inure to the benefit of, all parties hereto, their personal and legal representatives, guardians, successors, and assigns to the extent, but only to the extent, that assignment is provided for in accordance with, and permitted by, the provisions of this Agreement.

**14.2 Further Assurances.** The Member and the Company agree that they and each of them will take whatever action or actions are deemed by counsel to the Company or the Member to be reasonably necessary or desirable from time to time to effectuate the provisions or intent of this Agreement, and to that end the Member and the Company agree that they will execute, acknowledge, seal, and deliver any further instruments or documents which may be necessary to give force and effect to this Agreement or any of the provisions hereof, or to carry out the intent of this Agreement, or any of the provisions hereof.

**14.3 Gender and Headings.** Throughout this Agreement, where such meanings would be appropriate: (a) the masculine gender shall be deemed to include the feminine and the neuter and vice versa, and (b) the singular shall be deemed to include the plural and vice versa. The headings herein are inserted only as a matter of convenience and reference, and in no way define or describe the scope of the Agreement or the intent of any provisions thereof.

**14.4 Entire Agreement.** This Agreement sets forth all (and are intended by all parties hereto to be an integration of all) of the promises, agreements, conditions, understandings, warranties, and representations among the parties hereto with respect to the Company, and there are no promises, agreements, conditions, understandings, warranties, or representations, oral or written, express or implied, among them other than as set forth herein.

**14.5 Severability.** Nothing contained in this Agreement shall be construed as requiring the commission of any act contrary to law. In the event that there is any conflict between any provision of this Agreement and any statute, law, ordinance, or regulation contrary to which the Member or the Company have no legal right to contract, the latter shall prevail, but in such event the provisions of this Agreement thus affected shall be curtailed and limited only to the extent necessary to conform with said requirement of

law. In the event that any part, article, section, paragraph, or clause of this Agreement shall be held to be indefinite, invalid, or otherwise unenforceable, the entire Agreement shall not fail on account thereof, and the balance of the Agreement shall continue in full force and effect.

**14.6 Amendments.** This Agreement may be amended by a writing signed by the Member and the Company.

**14.7 Company Interests.** The Member hereby acknowledges and agrees that all Membership Interests in the Company shall for all purposes be deemed personalty and shall not be deemed realty or any interest in the real property owned by the Company.

**14.8 Waivers.** The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

**14.9 Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

**14.10 Company Seal.** Company may, but need not, have a company seal.

**14.11 Not for Benefit of Creditors.** The provisions of this Agreement are intended only for the regulation of relations between the Member and the Company. This Agreement is not intended for the benefit of non-Member creditors and does not grant any rights to or confer any benefits on non-Member creditors or any other person who is not a Member, a Manager, or an Officer.

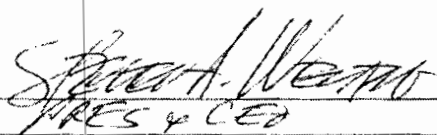
[Signature Page Follows]

**CERTIFICATE**

We hereby certify that the foregoing Second Amended and Restated Operating Agreement constitutes the Operating Agreement of Premiere Credit of North America, Limited Liability Company, an Indiana Limited Liability Company, adopted by the Member and the Company effective as of October 27, 2009.

**ECMC Holdings Corporation**

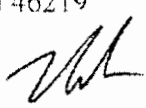
1 Imation Place, Building 2  
Oakdale, MN 55128

By:   
PRES & CEO

(Name/Title)

**Premiere Credit of North America, LLC**

2002 N. Wellesley Blvd., Suite 100  
Indianapolis, IN 46219

By:   
ROBERT MECK CEO

(Name/Title)

