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FILE

# BCC

BETTER COST CONTROL™

47

October 28, 2010

Public Utilities Commission of Ohio  
Docketing Division 13<sup>th</sup> Fl  
180 East Broad Street  
Columbus, OH 43215-3793

10-2462-EL-AGG

Subject: Application for Electricity Broker License

To Whom It May Concern:

Enclosed is our application for a license to broker electricity in the State of Ohio.

The original with the notarized affidavit is labeled as such.

If there are any questions, please contact me directly at 617-862-0213 or via email at [sgarson@bettercostcontrol.com](mailto:sgarson@bettercostcontrol.com).

Thanks for your consideration.

Sincerely,



Steve Garson  
President and Managing Member

PUCO

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The Public Utilities Commission of Ohio

PUCO Case Information		
Date Received	Case Number	Version
	10-2467 EL-AGG	August 2004

## CERTIFICATION APPLICATION FOR AGGREGATORS/POWER BROKERS

Please print or type all required information. Identify all attachments with an exhibit label and title (Example: Exhibit A-5 Experience). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division; 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may input information directly onto the form.  
You may also download the form, by saving it to your local disk, for later use.

### A. APPLICANT INFORMATION

#### A-1 Applicant's legal name, address, telephone number and web site address

Legal Name Better Cost Control, LLC  
 Address 2274 Washington Street  
 Telephone # (617) 332-7767 Web site address (if any) http://www.bettercostcontrol.com

#### A-2 List name, address, telephone number and web site address under which Applicant will do business in Ohio

Legal Name Better Cost Control, LLC and the OH registered trade name Ardor Power  
 Address 2274 Washington St, Newton, MA 02462  
 Telephone # (609) 454-0027 Web site address (if any) http://www.bettercostcontrol.com

#### A-3 List all names under which the applicant does business in North America

Better Cost Control  
BCC  
Ardor Power

#### A-4 Contact person for regulatory or emergency matters

Name Steve Garson  
 Title Managing Member

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Business address 2274 Washington Street, Newton, MA 02462

Telephone # (617) 332-7767

Fax # (617) 332-3881

E-mail address (if any) sgarson@bettercostcontrol.com

**A-5 Contact person for Commission Staff use in investigating customer complaints**

Name Steve Garson

Title Managing Member

Business address 2274 Washington Street, Newton, MA 02461

Telephone # (617) 332-7767

Fax # (617) 332-3881

E-mail address (if any) sgarson@bettercostcontrol.com

**A-6 Applicant's address and toll-free number for customer service and complaints**

Customer Service address 2274 Washington Street, Newton, MA 02462

Toll-free Telephone # (800) 454-0027

Fax # (617) 332-3881

E-mail address (if any) sgarson@bettercostcontrol.com

**A-7 Applicant's federal employer identification number # 900009071**

**A-8 Applicant's form of ownership (check one)**

☐ Sole Proprietorship

☐ Partnership

☐ Limited Liability Partnership (LLP)

☐ Limited Liability Company (LLC)

☐ Corporation

☐ Other \_\_\_\_\_

**A-9 (Check all that apply) Identify each electric distribution utility certified territory in which the applicant intends to provide service, including identification of each customer class that the applicant intends to serve, for example, residential, small commercial, mercantile commercial, and industrial. (A mercantile customer, as defined in (A) (19) of Section 4928.01 of the Revised Code, is a commercial customer who consumes more than 700,000 kWh/year or is part of a national account in one or more states).**

**☐ First Energy**

☐ Ohio Edison

☐ Toledo Edison

☐ Cleveland Electric Illuminating

☐ Cincinnati Gas & Electric

☐ Monongahela Power

☐ American Electric Power

☐ Ohio Power

☐ Columbus Southern Power

☐ Dayton Power and Light

☐ Residential

☐ Residential

☐ Residential

☐ Residential

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☐ Mercantile

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☐ Industrial

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☐ Industrial

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☐ Industrial

☐ Industrial

- A-10 Provide the approximate start date that the applicant proposes to begin delivering services  
December 1, 2010

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:**

- A-11 **Exhibit A-11 "Principal Officers, Directors & Partners"** provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-12 **Exhibit A-12 "Corporate Structure,"** provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers and companies that aggregate customers in North America.
- A-13 **Exhibit A-13 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-14 **Exhibit A-14 "Articles of Incorporation and Bylaws,"** if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the Applicant is incorporated and any amendments thereto.
- A-15 **Exhibit A-15 "Secretary of State,"** provide evidence that the applicant has registered with the Ohio Secretary of the State.

**B. APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE**

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:**

- B-1 **Exhibit B-1 "Jurisdictions of Operation,"** provide a list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail or wholesale electric services including aggregation services.
- B-2 **Exhibit B-2 "Experience & Plans,"** provide a description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4928.10 of the Revised Code.

**B-3** **Exhibit B-3 "Summary of Experience,"** provide a concise summary of the applicant's experience in providing aggregation service(s) including contracting with customers to combine electric load and representing customers in the purchase of retail electric services. (e.g. number and types of customers served, utility service areas, amount of load, etc.).

**B-4** **Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.

**B-5** Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No      ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-5 "Disclosure of Consumer Protection Violations"** detailing such violation(s) and providing all relevant documents.

**B-6** Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service including aggregation service denied, curtailed, suspended, revoked, or cancelled within the past two years.

☐ No      ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation"** detailing such action(s) and providing all relevant documents.

## **C. APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE**

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:**

**C-1** **Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information in Exhibit C-1 or indicate that Exhibit C-1 is not applicable and why.

**C-2** **Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.

- C-3 **Exhibit C-3 "Financial Statements,"** provide copies of the applicant's two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business.
- C-4 **Exhibit C-4 "Financial Arrangements,"** provide copies of the applicant's financial arrangements to conduct CRES as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.,).
- C-5 **Exhibit C-5 "Forecasted Financial Statements,"** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant's CRES operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the preparer.
- C-6 **Exhibit C-6 "Credit Rating,"** provide a statement disclosing the applicant's credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody's Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant.
- C-7 **Exhibit C-7 "Credit Report,"** provide a copy of the applicant's credit report from Experian, Dun and Bradstreet or a similar organization.
- C-8 **Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.

**C-9** **Exhibit C-9 "Merger Information."** provide a statement describing any dissolution or merger or acquisition of the applicant within the five most recent years preceding the application.

\_\_\_\_\_  
**Signature of Applicant & Title**

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Month Year

\_\_\_\_\_  
**Signature of official administering oath**

\_\_\_\_\_  
**Print Name and Title**

**My commission expires on** \_\_\_\_\_

# **AFFIDAVIT**

State of Massachusetts :

Newton ss.  
(Town)

County of Middlesex :

Steve Garson, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/She is the Managing Member (Office of Affiant) of Better Cost Control, LLC (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant,

1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

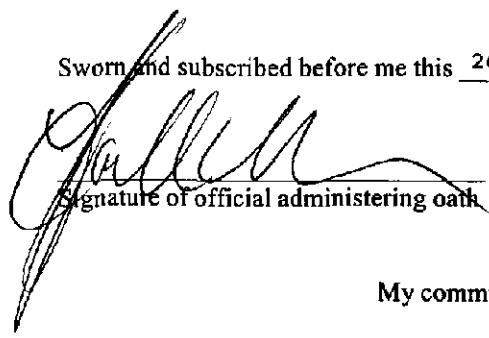


11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

  
Signature of Applicant & Title

Sworn and subscribed before me this 26th day of October, 2010  
Month Year

  
Signature of official administering oath

Hannah Wells, Notary

Print Name and Title

My commission expires on  **HANNAH WELLS**  
**Notary Public**  
**My Commission Expires**  
**February 18, 2016**

**Exhibit A-11**  
**Principal Officers, Directors & Partners**

**Applicant as one single Officer, Partner and Director**  
**Steve Garson**  
**2274 Washington Street**  
**Newton, MA 02462**  
**Ph: 617-862-0213**

**Exhibit A-12**  
**Corporate Structure**

**Applicant is a small business that offers consulting and procurement services. There are no affiliates or subsidiaries. We have five employees. With broker agreements with over twenty suppliers in the U.S. Applicant ventures to provide our customers with the lowest prices, with a clear understanding of the quoting supplier contract provisions.**

**Exhibit A-13**  
**Company History**

**Applicant was incorporated in February, 2002 to provide cost reduction services to businesses. Over time, these services focused on the procurement of electricity, natural gas and telecommunications services. Our business was focused on the New England states and gradually migrated to the Atlantic States. We are now interested in brokering electricity in Ohio. In addition, we are filing to be licensed natural gas brokers, as well.**

Better Cost Control, LLC

Limited Liability Company Operating Agreement

This Agreement is made as of the 9th day of May, 2002 by and among Better Cost Control, LLC (the "LLC") with a business address of 54 St. Mary's Street, Newton, Massachusetts, Steven Garson, an individual residing at 54 St. Mary's Street, Newton, Massachusetts and Warner Jones, an individual residing at 16 Blossom Street, Natick, Massachusetts (such persons and their respective successors in interests being hereinafter referred to individually as "Member" or collectively as "Members").

WHEREAS, the LLC has this day been formed as a limited liability company under the Massachusetts Limited Liability Company Act, M.G.L. c. 156C (as amended from time to time, the "Act"); and

WHEREAS, the Members wish to set out fully their respective rights, obligations and duties regarding the LLC and its assets and liabilities;

NOW, THEREFORE, in consideration of the mutual covenants expressed herein, the parties hereby agree as follows:

ARTICLE 1. - Organization and Powers

1.01 Organization. The LLC has been formed by the filing of its Certificate of Organization with the Secretary of the Commonwealth of Massachusetts pursuant to the Act. The Certificate of Organization may be restated by the Members as provided in the Act or amended by the Members to change the address of the office of the LLC in Massachusetts or to make corrections required by the Act. Other additions to or amendments of the Certificate of Organization shall be authorized by the Members as provided in Section 2.07. The Certificate of Organization as so amended from time to time, is referred to herein as the "Certificate."

1.02 Purposes and Powers. The business activity and purposes of the LLC shall be to provide financial and information technology management consulting services and any activities related thereto or useful in connection therewith. The LLC shall possess and may exercise all of the powers and privileges granted by the Act or which may be exercised by any person, together with any powers incidental thereto, so far as such powers or privileges are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the LLC, including without limitation the following powers:

(a) to conduct its business and operations in any state, territory or possession of the United States or in any foreign country or jurisdiction;

(b) to purchase, receive, take, lease or otherwise acquire, own, hold, improve, maintain, use or otherwise deal in and with, sell, convey, lease, exchange, transfer or otherwise

dispose of, mortgage, pledge, encumber or create a security interest in all or any of its real or personal property, or any interest therein, wherever situated;

(c) to borrow or lend money or obtain or extend credit and other financial accommodations, to invest and reinvest its funds in any type of security or obligation of or interest in any public, private or governmental entity, and to give and receive interests in real and personal property as security for the payment of funds so borrowed, loaned or invested;

(d) to make contracts, including contracts of insurance, incur liabilities and give guaranties, including without limitation, guaranties of obligations of other persons who are interested in the LLC or in whom the LLC has an interest;

(e) to appoint one or more Managers of the LLC, to employ officers, employees, agents and other persons, to fix the compensation and define the duties and obligations of such personnel, to establish and carry out retirement, incentive and benefit plans for such personnel, and to indemnify such personnel to the extent permitted by this Agreement and the Act;

(f) to make donations irrespective of benefit to the LLC for the public welfare or for community, charitable, religious, educational, scientific, civic or similar purposes; and

(g) to institute, prosecute, and defend any legal action or arbitration proceeding involving the LLC, and to pay, adjust, compromise, settle, or refer to arbitration any claim by or against the LLC or any of its assets.

1.03 Principal Place of Business. The principal office and place of business of the LLC shall initially be 54 St. Mary's Street, Newton, Massachusetts 02462-1019. The Members may change the principal office or place of business of the LLC at any time and may cause the LLC to establish other offices or places of business.

1.04 Fiscal Year. The fiscal year of the LLC shall end on December 31 in each year.

## ARTICLE 2. - Members

2.01 Members. The initial Members of the LLC and their addresses shall be listed on Schedule A and said schedule shall be amended from time to time by the Members to reflect the withdrawal of Members or the admission of additional Members pursuant to this Agreement. The Members shall constitute a single class or group of Members of the LLC for all purposes of the Act, unless otherwise explicitly provided herein. Schedule A shall constitute the record list of the Members for all purposes of this Agreement.

2.02 Management. The LLC shall be Member managed. The Members shall have the authority to (i) exercise all powers and privileges granted by the Act or any other law or this Agreement, together with any powers incidental thereto, so far as such powers are necessary or convenient to the conduct, promotion, or attainment of the business, trade, purposes or activities

of the LLC and (ii) to take any other action not prohibited under the Act, any applicable law or this Agreement.

**2.03 Compliance with Securities Laws and Other Laws and Obligations.** Each Member hereby represents and warrants to the LLC and acknowledges that (a) he has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of an investment in the LLC and making an informed investment decision with respect thereto, (b) he is able to bear the economic and financial risk of an investment in the LLC for an indefinite period of time and understands that he has no right to withdraw and have his interest repurchased by the LLC, (c) he is acquiring an interest in the LLC for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof, (d) he understands that the equity interests in the LLC have not been registered under the securities laws of any jurisdiction and cannot be disposed of unless they are subsequently registered and/or qualified under applicable securities laws and the provisions of this Agreement have been complied with and (e) if it is an entity, the execution, delivery and performance of this Agreement do not require it to obtain any consent or approval that has not been obtained and do not contravene or result in a default under any provision of any existing law or regulation applicable to it, any provision of its charter, by-laws or other governing documents (if applicable) or any agreement or instrument to which it is a party or by which it is bound.

**2.04 Admission of New Members.** Additional persons may be admitted to the LLC as Members and may participate in the profits, losses, distributions, allocations and capital contributions of the LLC upon such terms as are established by the Members, by amendment of this Agreement by unanimous vote of the Members. New Members shall be admitted at the time when all conditions to their admission have been satisfied, as determined by the Members, and their identity, Membership Interests (as defined in Section 2.07) and Contributions (if any) under Section 5.02 have been established by amendment of Schedule A. Existing Members shall have no preemptive or similar right to subscribe to the purchase of new Membership interests in the LLC.

**2.05 Meetings of Members.**

(a) Meetings of Members may be called for any proper purpose at any time by the holders of ten percent (10%) or more of the Membership Interests. The Members calling the meeting shall determine the date, time and place of each meeting of Members, and written notice thereof shall be given to each Member not less than ten days or more than 60 days prior to the date of the meeting. Notice shall be sent to Members of record on the date when the meeting is called. A written waiver of notice, executed before or after a meeting by a Member or its authorized attorney shall be deemed equivalent to notice of the meeting.

(b) Persons holding a majority of the Membership Interests shall constitute a quorum for the transaction of any business at a meeting of Members. Members may attend a meeting in person or by proxy. Members may also participate in a meeting by means of conference telephone or similar communications equipment that permits all Members present to hear each other. If less than a quorum of the Members is present, the meeting may be adjourned by the Members present to a later date, time and place, and the meeting may be held as

adjourned without further notice. When an adjourned meeting is reconvened, any business may be transacted that might have been transacted at the original meeting.

(c) The Members shall make available at any meeting of Members and for a period of ten days prior thereto a complete list of Members entitled to vote at such meeting or any adjournment thereof. The list shall reflect the current names and addresses of each Member and their Membership Interests and shall be subject to inspection by any Member at the meeting and during the ten-day period prior thereto at the principal office of the LLC.

(d) If there are more than two (2) Members, the Members shall elect from representatives of the Membership a chairman of the meeting. The chairman shall determine the order of business and the procedures to be followed at each meeting of Members.

**2.06 Action Without a Meeting.** There is no requirement that the Members hold a meeting in order to take action on any matter. Any action required or permitted to be taken by the Members may be taken without a meeting if one or more written consents to such action shall be signed by all Members of record.

**2.07 Voting Rights.** Unless otherwise required by the Act, all actions, approvals and consents to be taken or given by the Members under the Act, this Agreement or otherwise shall require the affirmative vote or written consent of Members holding a majority of the percentage interests of Members in the profits and losses of the LLC as specified on Schedule A (herein the "Membership Interests"). In the event of a tie vote, upon demand of any Member, a mutually agreed upon third party shall be empowered to break the tie and the Members agree to comply with his or her judgment.

**2.08 Limitation of Liability of Members.** Except as otherwise provided in the Act, no Member of the LLC shall be obligated personally for any debt, obligation or liability of the LLC or of any other Member, whether arising in contract, tort or otherwise, solely by reason of being a Member of the LLC. Except as otherwise provided in the Act, by law or expressly in this Agreement, no Member shall have any fiduciary or other duty to another Member with respect to the business and affairs of the LLC, and no Member shall be liable to the LLC or any other Member for acting in good faith reliance upon the provisions of this Agreement. No Member shall have any responsibility to restore any negative balance in its Capital Account (as defined in Section 5.01) or to contribute to or in respect of the liabilities or obligations of the LLC or return distributions made by the LLC except as required by the Act or other applicable law; provided, however, that (i) Members are responsible for their failure to make required Contributions under Section 5.02, and (ii) the Members must maintain Capital Account balances in accordance with Section 5.01. The failure of the LLC to observe any formalities or requirements relating to the exercise of its powers or the management of its business or affairs under this Agreement or the Act shall not be grounds for making its Members responsible for the liabilities of the LLC.

**2.09 Rights to Information.** Members shall have the right to receive upon request a copy of the Certificate and of this Agreement, as amended from time to time, and such other information regarding the LLC as is required by the Act, subject to reasonable conditions and

standards established by the other Members, as permitted by the Act, which may include, without limitation, withholding or restrictions on the use of confidential information.

**2.10 Reports.** Within 120 days after the end of each fiscal year of the LLC, the Members shall cause to be prepared and sent to all Members an unaudited financial report of the LLC, including a balance sheet, a profit and loss statement and, unless the profit and loss statement is prepared on a cash basis, a statement of changes in financial position. Within 90 days after the end of each fiscal year the Members shall furnish to all Members such information as may be needed to permit Members to file their federal income tax returns and any required state income tax returns. The cost of such reports shall be an expense of the LLC.

**2.11 Reliance by Third Parties.** Any person dealing with the LLC or any Member may rely upon a certificate signed by any Member as to (i) the identity of any Members; (ii) any factual matters relevant to the affairs of the LLC; (iii) the persons who are authorized to execute and deliver any document on behalf of the LLC; or (iv) any action taken or omitted by the LLC or any Member.

### ARTICLE 3. - Indemnification

**3.01 Right to Indemnification.** Except as limited by law and subject to the provisions of this Article, the LLC shall indemnify each of its Members against all expenses incurred by them in connection with any proceeding in which a Member is involved as a result of serving in such capacity, except that no indemnification shall be provided for a Member regarding any matter as to which it shall be finally determined that said Member did not act in good faith and in the reasonable belief that its action was in the best interests of the LLC. Subject to the foregoing limitations, such indemnification may be provided by the LLC with respect to a proceeding in which it is claimed that a Member received an improper personal benefit by reason of its position, regardless of whether the claim arises out of the Member's service in such capacity, except for matters as to which it is finally determined that an improper personal benefit was received by the Member.

**3.02 Award of Indemnification.** The determination of whether the LLC is authorized to indemnify a Member hereunder and any award of indemnification shall be made in each instance

(a) by a majority of the Members who are not parties to the proceeding in question, except in the case where there are only two Members, in which case the LLC shall, subject to Section 3.01 and this Section 3.02, indemnify such Member; or

(b) by independent legal counsel appointed by the Members.

The LLC shall be obliged to pay indemnification applied for by a Member unless there is an adverse determination (as provided above) within forty-five (45) days after the application. If indemnification is denied, the applicant may seek an independent determination of its right to indemnification by a court, and in such event, the LLC shall have the burden of proving that the applicant was ineligible for indemnification under this Article. Notwithstanding the foregoing,

in the case of a proceeding by or in the right of the LLC in which a Member is adjudged liable to the LLC, indemnification hereunder shall be provided to said Member only upon a determination by a court having jurisdiction that in view of all the circumstances of the case, said Member is fairly and reasonably entitled to indemnification for such expenses as the court shall deem proper.

3.03 Successful Defense. Notwithstanding any contrary provisions of this Article, if a Member has been wholly successful on the merits in the defense of any proceeding in which it was involved by reason of its position as Member or as a result of serving in such capacity (including termination of investigative or other proceedings without a finding of fault on the part of the Member), the Member shall be indemnified by the LLC against all expenses incurred by the Member in connection therewith.

3.04 Advance Payments. Except as limited by law, expenses incurred by a Member in defending any proceeding, including a proceeding by or in the right of the LLC, shall be paid by the LLC to the Member in advance of final disposition of the proceeding upon receipt of its written undertaking to repay such amount if the Member is determined pursuant to this Article or adjudicated to be ineligible for indemnification, which undertaking shall be an unlimited general obligation but need not be secured and may be accepted without regard to the financial ability of the Member to make repayment; provided, however, that no such advance payment of expenses shall be made if it is determined pursuant to Section 3.02 of this Article on the basis of the circumstances known at the time (without further investigation) that the Member is ineligible for indemnification.

3.05 Definitions. For purposes of this Article:

"expenses" means all expenses, including attorneys' fees and disbursements, actually and reasonably incurred in defense of a proceeding or in seeking indemnification under this Article, and except for proceedings by or in the right of the LLC or alleging that a Member received an improper personal benefit, any judgments, awards, fines, penalties and reasonable amounts paid in settlement of a proceeding; and

"proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and any claim which could be the subject of a proceeding.

3.06 Insurance. The LLC shall have power to purchase and maintain insurance on behalf of any Member, officer, agent or employee against any liability or cost incurred by such person in any such capacity or arising out of its status as such, whether or not the LLC would have power to indemnify against such liability or cost.

3.07 Heirs and Personal Representatives. The indemnification provided by this Article shall inure to the benefit of the heirs and personal representatives of each Member.

3.08 Non-Exclusivity. The provisions of this Article shall not be construed to limit the power of the LLC to indemnify its Members, officers, employees or agents to the full extent



permitted by law or to enter into specific agreements, commitments or arrangements for indemnification permitted by law. The absence of any express provision for indemnification herein shall not limit any right of indemnification existing independently of this Article.

3.09 Amendment. The provisions of this Article may be amended or repealed in accordance with Section 12.04; however, no amendment or repeal of such provisions that adversely affects the rights of a Member under this Article with respect to its acts or omissions at any time prior to such amendment or repeal, shall apply to said Member without its consent.

#### ARTICLE 4. - Conflicts of Interest

4.01 Transactions with Interested Persons. Unless entered into in bad faith, no contract or transaction between the LLC and one or more of its Members, or between the LLC and any other corporation, partnership, association or other organization in which one or more of its Members have a financial interest or are directors, partners, Managers or officers, shall be voidable solely for this reason or solely because said Member was present or participated in the authorization of such contract or transaction if:

(a) the material facts as to the relationship or interest of said Member and as to the contract or transaction were disclosed or known to the other Members and the contract or transaction was authorized by the disinterested Members; or

(b) the contract or transaction was fair to the LLC as of the time it was authorized, approved or ratified by the disinterested Members;

and no Member interested in such contract or transaction, because of such interest, shall be considered to be in breach of this Agreement or liable to the LLC, or Member, or any other person or organization for any loss or expense incurred by reason of such contract or transaction or shall be accountable for any gain or profit realized from such contract or transaction.

4.02 Outside Business; Competition. The Members, Managers and any affiliates of any of them may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, except for business ventures or investment opportunities with purposes similar to or competitive with those of the LLC. Neither the LLC nor any other Member or Manager shall have any rights in or to such ventures or opportunities or the income or profits therefrom.

#### ARTICLE 5. - Capital Accounts and Contributions

##### 5.01 Capital Accounts.

(a) A separate capital account (each a "Capital Account") shall be established for each Member, and shall be maintained in accordance with applicable regulations under Section 704 of the Code. The Members may adjust the Capital Accounts of the Members to

reflect revaluations of the LLC property whenever the adjustment would be permitted under Regulations Section 1.704-1(b)(2)(iv)(f). In the event that the Capital Accounts of the Members are so adjusted, (i) the Capital Accounts of the Members shall be adjusted in accordance with Regulations Section 1.704-1(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain or loss, as computed for book purposes, with respect to such property and (ii) the Members' distributive shares of depreciation, depletion, amortization and gain or loss, as computed for tax purposes, with respect to such property shall be determined so as to take account of the variation between the adjusted tax basis and book value of such property in the same manner as under Section 704(c) of the Code. In the event that Code Section 704(c) applies to LLC property, the Capital Accounts of the Members shall be adjusted in accordance with Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain and loss, as computed for book purposes, with respect to such property. The Capital Accounts shall be maintained for the sole purpose of allocating items of income, gain, loss and deduction among the Members and shall have no effect on the amount of any distributions to any Member in liquidation or otherwise. The amount of all distributions to Members shall be determined pursuant to Article 7. Notwithstanding any provision contained herein to the contrary, no Member shall be required to restore any negative balance in its Capital Account.

(b) To the extent consistent with the regulations under Section 704 of the Code, there shall be credited to each Member's Capital Account the amount of any contribution of capital made by such Member to the LLC, and such Member's share of the net profits of the LLC, and there shall be charged against each Member's Capital Account the amount of all distributions to such Member, and such Member's share of the net losses of the LLC. Notwithstanding the above, if any Member shall contribute services as their initial capital contribution in consideration for their Membership Interests such Member shall not receive a credit to their Capital Accounts for the value of such services. As a consequence, the Membership Interests granted to such Members shall constitute a "profits interest" for Federal income tax purposes. Except for the lack of an initial Capital Account balance, the interest of a holder of a Membership Interest representing a profits interest is identical to the interest of the holders of all other Membership Interests, regardless of whether such other Membership Interests represent a profits interest.

**5.02 Contributions.** Each Member shall make the contributions to the capital of the LLC (herein "Contributions") specified on Schedule A. All Contributions shall be paid in cash unless otherwise specified on Schedule A or agreed to by the Members. Additional capital contributions may be made by any Member if agreed to by the Members and shall be reflected on Schedule A.

**5.03 Additional Capital.** Except as set forth on Schedule A, no Member shall be obligated or permitted to make any contribution to the capital of the LLC; however, the LLC may borrow from its Members as well as from banks or other lending institutions to finance its working capital or the acquisition of assets upon such terms and conditions as shall be approved by the Members, and any such borrowing from Members shall not be considered Contributions or reflected in their Capital Accounts. The value of all non-cash Contributions made by Members shall be set forth on Schedule A. No Member shall be entitled to any interest or compensation with respect to its Contribution or any services rendered on behalf of the LLC

except as specifically provided in this Agreement or approved by the other Members. No Member shall have any liability for the repayment of the Contribution of any other Member. No Member shall have the right to withdraw or to be repaid any capital contributed by him or to receive any other payment in respect of his interest in the LLC, including without limitation as a result of the withdrawal or resignation of such Member from the LLC, except as specifically provided in this Agreement.

**ARTICLE 6. – Vesting of Membership Interests.**

Except as otherwise provided in this Agreement, the ownership of membership interests owned by Steven Garson and Warner Jones shall vest as follows:

Prior to September 1, 2002 : 0 %  
On or after September 1, 2002 but prior to October 1, 2002: 16.66 %  
Monthly thereafter on the first day of each month beginning  
October 1, 2002: 2.083%

The foregoing notwithstanding, upon the occurrence of any of the following events all membership interests shall vest 100%:

- (i) the merger or consolidation of the LLC in a transaction in which more than ninety percent (90%) of the membership interests change hands; or
- (ii) the sale of all or substantially all of the assets of the LLC.

**ARTICLE 7. – Allocation of Profits and Other Items and Distribution of Net Cash Flow**

**7.01 Distributions.** Distributions of net cash flow shall be made to the Members in such amounts and at such times as determined by the Members. Any distribution shall be distributed to the Members pro rata according to such Member's respective Membership Interest at the date of the distribution or at such record date as the Members shall establish for the distribution, provided no such record date shall be more than 30 days before the date of the distribution to which it relates.

**7.02 Distributions to Cover Members' Tax Liability.** Notwithstanding Section 7.01 and without guaranteeing or assuring the availability of sufficient net cash flow for such distribution, the Members shall, each fiscal year, distribute pursuant to Section 7.01 net cash flow to Members in an amount deemed reasonably necessary to allow each Member to pay their estimated Federal and state taxes on their allocable share of LLC profit assuming the highest Federal and state marginal tax rates. Nothing contained in this Section 7.02 shall be construed as granting the Members the right to amend any provision of this Article 7 hereof or to distribute cash in a fashion inconsistent with this Article 7, in violation of applicable law or in violation of the fiduciary duties of the Members.

7.03 Distributions Upon Dissolution. Amounts available upon dissolution of the LLC shall be distributed and applied in the following priority:

(a) First, to pay all liabilities owing to creditors of the LLC, to pay the expenses of the liquidation or distribution in kind of the LLC's assets and the dissolution of the LLC, and to establish reserves (and, upon the expiration of such period of time as the Members deem advisable, any remaining balance of such reserves shall be applied or distributed in the manner set forth in clause (b) of this Section 7.03).

(b) Second, to make distributions to the Members, pro rata, in accordance with the balances of their positive Capital Accounts.

(c) Third, to the Members as provided in Section 7.05.

7.04 Distribution of Assets in Kind. The LLC may as determined by the Members make any distributions under Section 7.01 or 7.03 in the form of assets other than cash. If any assets of the LLC are distributed in kind, such assets shall be valued for purposes of such distribution at their respective Gross Asset Values, net of liabilities, as determined by the Managers. Gross Asset Value means, with respect to any asset, such asset's adjusted basis for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the LLC shall be the gross fair market value of such asset, as agreed to by the contributing Member and the other Members;

(b) the Gross Asset Value of all LLC assets shall be adjusted to equal their respective gross fair market values, as determined by the Members, as of the following times: (a) the contribution of more than a *de minimis* amount of assets to the LLC by a new or existing Member as consideration for an interest in the LLC; (b) the distribution by the LLC to a Member of more than a *de minimis* amount of LLC assets as consideration for such Member's interest in the LLC; and (c) the liquidation of the LLC within the meaning of Treasury Regulation §1.704-1(b)(2)(ii)(g); *provided, however*, that adjustments pursuant to clauses (a) and (b) of this sentence shall be made only if the Members reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the LLC;

(c) the Gross Asset Value of any LLC asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution, as determined by the Members or, in the case of a distribution made in connection with a dissolution of the LLC, by the liquidator; and

(d) if the Gross Asset Value of an asset has been determined or adjusted pursuant to paragraph (a) or paragraph (b) of this definition, such Gross Asset Value shall thereafter be adjusted by the depreciation taken into account with respect to such asset for purposes of computing profits and losses.

7.05 Allocation of Profits and Losses.

(a) Allocations. Except as otherwise provided in this Article 7:

(i) Losses. Losses (meaning net taxable losses of the LLC as determined under Section 703(a) of the Code) of the LLC for each tax year or other period shall be allocated among the Members as follows:

(A) first, to the Members in the amounts necessary to reverse, on a cumulative basis and without duplication, all allocations of profit to the Members pursuant to Section 7.05(a)(ii);

(B) second, to the Members to the extent of and in proportion to the positive balances, if any, in their respective Capital Accounts at the time of such allocation; and

(C) third, to the Members in accordance with and in proportion to such Members' respective Membership Interests.

(ii) Profit. Profit (meaning net taxable income of the LLC as determined under Section 703(a) of the Code) of the LLC for each tax year or other period shall be allocated among the Members as follows:

(A) first, to the Members in the amounts necessary to reverse, on a cumulative basis and without duplication, all allocations of losses to the Members pursuant to Section 7.05(a)(i); and

(B) second, to the Members in accordance with and in proportion to such Members' respective Membership Interest.

(b) Minimum Gain Chargeback. Any allocations shall be modified to ensure that to the extent possible (i) such allocations satisfy the economic effect equivalence test of Treasury Regulations Section 1.704-1(b)(2)(ii)(i) by allocating items that can have economic effect in such a manner that the balance of each Member's Capital Account at the end of any accounting period (increased by such Member's "share of partnership minimum gain" as defined in Treasury Regulations Section 1.704-2) would be positive in the amount of cash that such Member would receive (or would be negative in the amount of cash that such Member would be required to contribute to the LLC) if the LLC sold all of its property for an amount of cash equal to the book value (as defined pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)) of such property (reduced, but not below zero, by the amount of non-recourse debt to which such property is subject) and all of the cash of the LLC remaining after payment of all liabilities (other than non-recourse liabilities) of the LLC were distributed in liquidation at the end of such accounting period pursuant to Section 7.01, and (ii) that all allocations of items that cannot have economic effect (including credits and non-recourse deductions) are allocated to the Members in accordance with their Membership Interests, unless otherwise required by Code Section 704(b) and the Treasury Regulations promulgated thereunder. Any such modifications shall be made by the Managers only after consultation and with the advice of the LLC's tax counsel or

accountants. Notwithstanding the above, partner non-recourse deductions shall be allocated to the Member that bears the economic risk of loss for the corresponding partner non-recourse debt in accordance with Treasury Regulations Section 1.704-2(i).

(c) Section 704(c) Allocations. Except to the extent otherwise required by the Code, the "traditional method" without "curative allocations" provided for in Regulations Section 1.704-3(b) shall apply to all tax allocations governed by Code Section 704(c) and all "reverse Section 704(c) allocations."

(d) Qualified Income Offset. Any Member who unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) that causes a deficit balance in his Capital Account (adjusted as provided in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)) shall be allocated items of income and gain in an amount sufficient to eliminate, to the extent required by the Treasury Regulations, such deficit balance as quickly as possible. This Section 7.05 is intended to comply with the alternate test for economic effect set forth in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted and applied in a manner consistent therewith.

(e) Section 754 Election. Upon any Member's request which is approved by the Members, the LLC shall elect, pursuant to Section 754 of the Code, to adjust the basis of LLC property as permitted and provided in Sections 734 and 743 of the Code.

7.06 Allocations Within Fiscal Year. Upon the admission of any new Member pursuant to the terms of this Agreement, the new and old Members or the transferor and transferee shall be allocated shares of profits or losses and other allocations based on the portion of the fiscal year that the new or transferred Membership Interests were held by the new and old Members or the transferor and transferee, as the case may be, respectively. Nothing in this Section 7.06 shall be construed to cause the Members, other than in their sole discretion, to close and balance the LLC's books of account at a time other than the end of the LLC's fiscal year.

7.07 Tax Withholding. If the LLC incurs a withholding tax obligation with respect to the share of income allocated to any Member, (a) any amount which is (i) actually withheld from a distribution that would otherwise have been made to such Member and (ii) paid over in satisfaction of such withholding tax obligation shall be treated for all purposes under this Agreement as if such amount had been distributed to such Member, and (b) any amount which is so paid over by the LLC to the applicable taxing authorities but which exceeds the amount, if any, actually withheld from a distribution which would otherwise have been made to such Member, shall be treated as an advance to such Member. Amounts treated as advanced to any Member pursuant to this Section 7.07 shall be repaid by such Member to the LLC upon such terms as are agreed by such Member and the LLC.

## ARTICLE 8. - Transfers of Interests

8.01 General Restrictions on Transfer. Except as provided in Section 8.05 below, no Member may sell, assign, give, pledge, hypothecate, encumber or otherwise transfer, including without limitation, any assignment or transfer by operation of law or by order of court, such

Member's interest in the LLC or any part thereof, or in all or any part of the assets of the LLC, without the affirmative vote of the Members, and any purported assignment without such consent shall be null and void and of no effect whatsoever.

The LLC and its Members shall be entitled to treat the record owner of an interest in the LLC as the absolute owner thereof in all respects, and shall incur no liability for distributions of cash or other property made in good faith to such owner until such time as a written assignment of such interest has been received and accepted by the Members and recorded on the books of the LLC. The LLC may refuse to accept and record an assignment until the end of the next successive quarterly accounting period of the LLC.

8.02 Requirements for Transfer. Every transfer of an interest in the LLC permitted hereunder shall be subject to the following requirements:

(a) The transferee shall establish that the proposed transfer will not cause or result in a breach of any agreement binding upon the LLC or any violation of law, including without limitation, federal or state securities laws, and that the proposed transfer would not cause the LLC to be an investment company as defined in the Investment Company Act of 1940, as amended;

(b) The transferee shall establish that the transferee is financially responsible and of good character and that the transfer would not adversely affect the classification of the LLC as a partnership for federal tax purposes, terminate its classification as a partnership under Code Section 708, or have a substantial adverse effect with respect to federal income taxes payable by the LLC; and

(c) The transferee shall execute a counterpart of this Agreement and such other documents or instruments as may be required by the LLC to reflect the provisions hereof.

Until the foregoing requirements are met, the LLC need not recognize the transferee for any purpose under this Agreement.

### 8.03 Effect of Transfer.

(a) If the transferee is admitted as a Member or is already a Member, the Member transferring its interest shall be relieved of liability with respect to the transferred interest arising or accruing under this Agreement on or after the effective date of the transfer, unless the transferor affirmatively assumes such liability; provided, however, that the transferor shall not be relieved of any liability for prior distributions unless the transferee affirmatively assumes such liabilities.

(b) Any person who acquires in any manner an interest or any part thereof in the LLC, whether or not such person has accepted and assumed in writing the terms and provisions of this Agreement or been admitted as a Member, shall be deemed by the acquisition of such interests to have agreed to be subject to and bound by all of the provisions of this

Agreement with respect to such interest, including without limitation, the provisions hereof with respect to any subsequent transfer of such interest.

8.04 Prohibited Transfers. Any transfer in violation of any provisions of this Agreement shall be null and void and ineffective to transfer any interest in the LLC and shall not be binding upon or be recognized by the LLC, and any such transferee shall not be treated as or deemed to be a Member for any purpose. In the event that any Member shall at any time transfer its interest in violation of any of the provisions of this Agreement, the LLC and the other Members, in addition to all rights and remedies at law and equity, shall have and be entitled to an order restraining or enjoining such transaction, it being expressly acknowledged and agreed that damages at law would be an inadequate remedy for a transfer in violation of this Agreement.

8.05 Right of First Refusal.

(a) If a Member ("Offeree") receives a written offer made in good faith by a third party (the "Offeror"), to purchase all or a portion of the Member's vested interest, the Member shall give the LLC and the other Members a right of first refusal to purchase said membership interest on the same terms and conditions as stated in the offer, as provided herein. The offer shall set forth the name of the Offeror, the membership interest to be transferred, the price and other terms of the offer, and any other relevant material information available regarding the proposed transfer. The Offeree shall deliver copies of the offer to the other Members. Purchase or transfers of unvested interests are prohibited.

(b) The LLC shall have the option to acquire all or (subject to the conditions hereinafter set forth) any part of the membership interest being offered at the price, terms, and conditions set forth in the offer. The LLC may exercise this option by the affirmative action of the Members (other than the Offeree). The LLC, in its sole discretion, may assign its rights hereunder to any Assignee. The LLC shall have twenty (20) days from the receipt of the offer in which to notify the Offeree of its election to purchase all or a portion of the membership interest being offered. If the LLC does not elect to purchase all of the offered membership interest, it shall so notify the other Members, and the other Members may elect to purchase all or a portion of the membership interest being offered on the same terms and conditions as are set forth in the offer, by giving notice to the Offeree and the LLC within ten (10) days after notice from the LLC. The LLC and the other Members cannot purchase any part of the offered membership interest unless they elect to purchase the entire membership interest subject to the offer. The Members electing to purchase shall have the right to purchase in proportion to their relative membership interests, or in such other manner as they may agree to within the 10-day period.

(c) The closing of the purchase by the LLC and/or any Members shall take place on a date not less than ten (10) days nor more than ninety (90) days after the elections to purchase have been made, as specified by the LLC and the purchasing Members, if any.

(d) If the membership interest of the Offeree is not purchased by the LLC and the other Members as provided herein, the Offeree may sell such membership interest to the Offeror upon the terms and conditions set forth in the offer (or other terms and conditions no more favorable to



the Offeror), provided that such sale is concluded within ninety (90) days after the expiration of the 10-day election period, and the Offeror complies with this Article.

#### ARTICLE 9 – Disposition of Membership Interest

9.01 Purchase Upon Death of a Member. As soon as practicable after the death of a Member during the term of this Agreement, but no later than six (6) months after such death, the LLC shall purchase the Membership Interest owned by the deceased Member from the deceased Member's estate, at a price determined according to Section 9.04 of this Agreement. A Member's Membership Interest shall vest 100% upon the death of the Member. The LLC shall also pay to the deceased Member's estate, the deceased Member's proportionate share of the LLC's fee revenue accrued up until the date of the Member's death from services completed as of that date, as such fee revenue is actually collected.

9.02 Purchase Upon Disability or Termination of a Member. In the event of the disability of a Member or the termination of the employment of a Member:

- (a) the LLC shall repurchase the disabled or terminated Member's vested Membership Interest for a price determined according to Section 9.04 of this Agreement. The Member's unvested Membership Interest shall be forfeited. Payment for the vested Membership Interest shall be made according to Section 9.05 of this Agreement; and
- (b) the disabled or terminated Member shall be paid his proportionate share of the LLC's fee revenue accrued up until the date of the Member's disability or termination from services completed as of that date, as such fee revenue is actually collected.

For the purposes of this Agreement, "disability" means the inability of a Member due to illness, accident or injury, to perform his duties and obligations to the LLC for a period of one hundred and twenty (120) consecutive days, with the date of disability being deemed to occur upon the one hundred twenty-first such consecutive day. A Member who is unable to work due to illness, accident or injury for a period of twenty-one (21) consecutive days shall cease to collect a salary from the LLC upon the twenty-second day until such time as the Member is able to perform his duties and obligations to the LLC in a manner that is substantially similar to that prior to such illness, accident or injury. A Member's employment shall be deemed terminated upon notice from the Members or from the Member himself. A tie vote on the issue of termination or disability shall be resolved as set forth in Section 2.07.

9.03 Life Insurance. The LLC shall obtain and maintain separate life insurance policies insuring the life of each Member. Such insurance shall be obtained within 60 days after the LLC cumulatively contracts fees in excess of \$100,000, comprised of the total of (i.) actual audit results presented to clients and agreed as the basis of clients' fee or bill and (ii.) all commissions earned by BCC for services provided or to be provided to clients. If all Members unanimously agree, the purchase of such life insurance policies may be delayed an additional six months.

Each individual policy shall have a coverage amount equal to the value of the insured Member's Membership Interest, as adjusted from time to time to reflect any change in value of the respective Membership Interest. Each Member agrees to cooperate in the process of obtaining the insurance policies. The LLC shall provide each insured Member, at least annually, with a certificate of insurance evidencing the effectiveness of the respective policy. In the event of the death of a Member, the proceeds of the respective policy shall be used to purchase the deceased Member's Membership Interest from his estate.

#### 9.04 Valuation of Vested Membership Interest.

##### (a.) Definitions:

(i.) **Date of Closing:** is defined as date for the calculation of all amounts necessary to determine the Valuation of the Membership Interest. The Date of Closing shall be no later than thirty days after the termination date of the selling member from day to day operation with the LLC

(ii.) **Booked Revenue** shall be defined as revenue forecast as a result of signed contracts and their respective audit reports completed as of the Date of Closing. Forecasted amounts shall be based on (i.) the actual audit results presented to clients and agreed as the basis of the fee and (ii.) all commission received by BCC for services provided or to be provided to clients.

(iii.) **Commission Expenses** shall be defined as the total of commissions payable to third parties for all Booked Revenue.

(iv.) **Projected Annual Expenses** shall be calculated by totaling the actual expenses from the three months preceding the Date of Closing and multiplying this number times four. Such expenses shall include, but not be limited to office expenses, insurance, rent, staff, marketing, legal, travel & entertainment and all other expenses of the LLC, with the exception of Member related salary expense and commission expenses.

(v.) **Revenue Before Salary and Owner Withdrawals** shall be defined as the Booked Revenue less Commissions Expenses less Projected Annual Expenses.

(vi.) **Salary Before Owner Withdrawals** shall be defined as the amount of money resulting from the calculation of  $0.60 \times \text{Revenue Before Salary and Owner Withdrawals}$ .

(vii.) **Profit before Owner Withdrawals and Taxes** (a.k.a. "Profit") shall be defined as Revenue Before Salary and Owner Withdrawals minus Salary Before Owner Withdrawals.

(viii.) **Selling Member:** defined as the Member exchanging his ownership in the LLC for funds as specified in 9.04.

(ix.) **Actual Revenue for the Post-Closing 12 Months** shall be calculated based on the total actual revenue for the twelve month period beginning with the Date of Closing, and subsequent twelve-month periods, for Audit Reports and other services contracted prior to the Date of Closing. This forecast shall be calculated for the periods ending (a) one year, (b) two years and (c) three years after the Closing Date.

(x.) **Projected Revenue for the Post-Closing Twelve Months** shall be calculated based on a forecast derived from billable fees as a result of Audit Reports completed and presented to clients before the Closing Date plus any other services contracted before the Closing Date, including, but not limited to telephone service, energy services, and consulting services. This forecast shall be calculated for the periods ending (a) one year, (b) two years and (c) three years after the Closing Date. Such forecast shall be provided to the Selling Member on the Closing Date.

(xi.) **Loans on Books of LLC** shall be defined as all loans outstanding on the books of the LLC.

(b.) In the event of the purchase of a Membership Interest pursuant to Section 9.01 or Section 9.02 of this Agreement, the value of the relevant Membership Interest shall be determined by the following formula:

	Booked Revenue
Minus:	Commission Expenses
Minus:	Projected Annual Expenses
Equals:	Revenue Before Salary and Owner Withdrawals
	Revenue Before Salary and Owner Withdrawals
Minus:	Salary Before Owner Withdrawals
Equals	Profit Before Owner Withdrawals and Taxes ("Profit")

Valuation for Buyout = (2 times Profit) minus Loans on Books of LLC.

Vested Membership Interest = Valuation for Buyout times Member Share as defined in Schedule A times Vesting Percentage as determined in ARTICLE 6.

(c.) For purposes of this Agreement, all calculations shall be made using U.S. generally accepted accounting principles ("GAAP")

(d.) This valuation formula shall be final and binding upon the parties.

9.05 . Payment by the LLC. In the event that the LLC repurchases the vested Membership Interest of a Member pursuant to Section 9.02 of this Agreement, the purchase price shall be paid as follows:

(a.) Upon Closing: 50% of the Vested Membership Interest, plus any loans payable to the selling Member.

(b.) One year after the Closing Date: 16.7% of the Vested Membership Interest times (Actual Revenue for the Previous 12 Months divided by Projected Revenue for the Previous Twelve Months)

(c.) Two years after the Closing Date: 16.7% of the Vested Membership Interest times (Actual Revenue for the Previous 12 Months divided by Projected Revenue for the Previous Twelve Months)

(d.) Three Years after the Closing Date: 16.7% of the Vested Membership Interest times (Actual Revenue for the Previous 12 Months divided Projected Revenue for the Previous Twelve Months)

In the event that the Vested Membership Interest of a Member plus loans payable to the selling Member is, in aggregate, less than \$10,000, then in lieu of 9.05a, b, c and d, the entire Vested Membership Interest of the Member plus any loans payable to the selling Member shall be paid upon closing.

#### ARTICLE 10 – Proprietary Information

Except as required in the performance of its duties on behalf of the LLC, each Member agrees that it will not at any time while it is associated with the LLC or thereafter, divulge or disclose to anyone outside of the LLC any information not already lawfully available to the public concerning proprietary information of the LLC or any research, know-how, marketing data, operating or cost data, customer or supplier lists, proposals, bids, price lists or any other confidential information of the LLC or its customers.

#### ARTICLE 11 – Dissolution, Liquidation, and Termination

11.01 Dissolution. The LLC shall dissolve and its affairs shall be wound up upon the first to occur of the following:

- (a) the vote of not less than two-thirds of the Membership Interests;
- (b) the entry of a decree of judicial dissolution under Section 44 of the Act; or
- (c) the consolidation or merger of the LLC in which it is not the resulting or surviving entity.

11.02 Liquidation. Upon dissolution of the LLC, the Members shall act as its liquidating trustees or the Members may appoint one or more Members as liquidating trustee. The liquidating trustee shall proceed diligently to liquidate the LLC, to wind up its affairs and to

make final distributions as provided in Article 7 and in the Act. The costs of dissolution and liquidation shall be an expense of the LLC. Until final distribution, the liquidating trustee may continue to operate the business and properties of the LLC with all of the power and authority of the Members. As promptly as possible after dissolution and again after final liquidation, the liquidating trustee shall cause an accounting of the LLC's assets, liabilities, operations and liquidating distributions to be given to the Members.

11.03 Certificate of Cancellation. Upon completion of the distribution of LLC assets as provided herein, the LLC shall be terminated, and the Members (or such other person or persons as the Act may require or permit) shall file a Certificate of Cancellation with the Secretary of State of Massachusetts under the Act, cancel any other filings made pursuant to Sections 1.01, and 1.03, and take such other actions as may be necessary to terminate the existence of the LLC.

## ARTICLE 12 - General Provisions

12.01 Offset. Whenever the LLC is obligated to make a distribution or payment to any Member, any amounts that a Member owes the LLC may be deducted from said distribution or payment.

12.02 Notices. Except as expressly set forth to the contrary in this Agreement, all notices, requests, or consents required or permitted to be given under this Agreement must be in writing and shall be deemed to have been given (i) five (5) days after the date mailed by registered or certified mail, addressed to the recipient, with return receipt requested, (ii) upon delivery to the recipient in person or by courier, or (iii) upon receipt of a facsimile transmission by the recipient. Such notices, requests and consents shall be given (x) to Members at their addresses on Schedule A, or such other address as a Member may specify by notice to all of the other Members, or (y) to the LLC at the address of the principal office of LLC specified in Section 1.03. Whenever any notice is required to be given by law, the Certificate or this Agreement, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

12.03 Entire Agreement. This Agreement constitutes the entire agreement of the Members relating to the LLC and supersedes all prior contracts or agreements with respect to the LLC, whether oral or written.

12.04 Amendment or Modification. This Agreement may be amended or modified from time to time only by a written instrument signed by Members holding a majority of the Membership Interests; provided, however, that (a) an amendment or modification reducing a Member's Membership Interest or changing adversely the rights of a Member with respect to distributions, allocations or voting, (other than to reflect the admission of new Members or changes otherwise provided by this Agreement) shall be effective only with that Member's consent; (b) an amendment or modification to reflect the admission of a new Member who is an assignee of an existing Member, shall be subject to approval as provided in Section 2.04; (c) an amendment or modification increasing any liability of a Member to the LLC or Members, or adversely affecting the limitation of the liability of a Member with respect to the LLC, shall be

effective only with that Member's consent; (d) an amendment or modification reducing the required percentage of Membership Interests for any consent or vote in this Agreement shall be effective only with the consent or vote of Members having the percentage of Membership Interests theretofore required; and (e) an amendment of this section shall require the unanimous consent of the Members.

12.05 Binding Effect. Subject to the restrictions on transfers set forth in this Agreement, this Agreement is binding on and inures to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

12.06 Governing Law; Severability. This Agreement is governed by and shall be construed in accordance with the laws of the Commonwealth of Massachusetts, exclusive of its conflict-of-laws principles. In the event of a conflict between the provisions of this Agreement and any provision of the Certificate or the Act, the applicable provision of this Agreement shall control, to the extent permitted by law. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision shall be enforced to the fullest extent permitted by law.

12.07 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

12.08 Third-Party Beneficiaries. The provisions of this Agreement are not intended to be for the benefit of any creditor or other person to whom any debts or obligations are owed by, or who may have any claim against, the LLC or any of its Members, except for Members in their capacities as such. Notwithstanding any contrary provision of this Agreement, no such creditor or person shall obtain any rights under this Agreement or shall, by reason of this Agreement, be permitted to make any claim against the LLC or any Member.

12.09 Interpretation. For the purposes of this Agreement, terms not defined in this Agreement shall be defined as provided in the Act; and all nouns, pronouns and verbs used in this Agreement shall be construed as masculine, feminine, neuter, singular, or plural, whichever shall be applicable. Titles or captions of Articles and Sections contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date set forth above.

BETTER COST CONTROL, LLC



DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
10/20/2010	201029200673	REG. OF FOR. PROFIT LIM. LIAB. CO. (LFP)	125.00	100.00	.00	.00	.00

**Receipt**

This is not a bill. Please do not remit payment.

BETTER COST CONTROL LLC  
2274 WASHINGTON STREET  
ATTN: STEVE GARSON  
NEWTON, MA 02462

# STATE OF OHIO

## CERTIFICATE

Ohio Secretary of State, Jennifer Brunner

1970335

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

**BETTER COST CONTROL, LLC**

and, that said business records show the filing and recording of:

Document(s)

**REG. OF FOR. PROFIT LIM. LIAB. CO.**

Document No(s):

**201029200673**

United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of  
the Secretary of State at Columbus,  
Ohio this 18th day of October, A.D.  
2010.

Ohio Secretary of State

## B-1 Exhibit B-1 "Jurisdictions of Operation"

At present, Applicant is licensed as an electricity broker in the state of Massachusetts and an electricity aggregator in the State of Massachusetts. Application as an electricity broker has been submitted in the State of Pennsylvania and Maryland.

## B-2 Exhibit B-2 "Experience & Plans"

Applicant's executive has been trained and certified by the Association of Energy Engineers in Energy Procurement and Hedging. Residential customers will be acquired via web site. Commercial customers will be acquired via a direct sales force with no more than five sales people. Brokering will be solely for electricity suppliers that are licensed in Ohio, using their contracts. Therefore billing and service matters will be handled by the supplier, not the Applicant. After a customer is contracted with a supplier, Applicant will provide assistance to customers who have found direct contact with supplier for service matters to be unsatisfactory.

## B-3 Exhibit B-3 "Summary of Experience"

Applicant has represented over 50 commercial customers in Massachusetts and Rhode Island, with a total load of 400 million kWh/year. In addition, Applicant has twenty residential customers in NY and PA that have been the result of web trial operating under the broker license of another company.

## B-4 Exhibit B-4 "Disclosure of Liabilities and Investigations"

Applicant has no, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.

B-5 Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

x No ☒ Yes

B-6 Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service including aggregation service denied, curtailed, suspended, revoked, or cancelled within the past two years.

X No ☒ Yes

## C. APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE

### C-1 Exhibit C-1 "Annual Reports"

Applicant does not have annual reports in the sense that public companies have. Financial statements are included in Exhibit C-3.



C-2 Exhibit C-2 "SEC Filings"

Applicant is not required to make SEC filings since it is a private company.

**C-4 Exhibit C-4 "Financial Arrangements"**

Not applicable, since Applicant is only performing the role of a consultant and broker.

C-6 Exhibit C-6 "Credit Rating"

D&B Credit Ratings:

Financial Stress Class: 3

Financial Stress Score: 1502

Credit Score: 481

Paydex Score: Generally within terms

Due to the size of the Applicant, there are no other credit rating agencies that can provide credit information.

# D&B Comprehensive Report

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ATTN: **D&B CC**

Report Printed: AUG 11 2010

## Overview

### BUSINESS SUMMARY

#### BETTER COST CONTROL LLC

MPLS EXPERTS

2274 Washington St  
Newton, MA 02462

**D&B D-U-N-S Number:** 12-461-0853

This is a **single** location.

**Web site:** www.bettercostcontrol.com

**Telephone:** 617 332-7767

**Manager:** STEVE GARSON, PRES-CEO

**Year started:** 2001

**Employs:** 6

**History:** CLEAR

**SIC:** 8748

**Line of business:** Business consulting energy & telecommunications

#### Credit Score Class: **2**

Moderate risk of severe payment delinquency over next 12 months

#### Financial Stress Class: **3**

#### D&B PAYDEX®: **80**

When weighted by dollar amount, payments to suppliers average generally within terms.

**D&B Rating:** --

### EXECUTIVE SUMMARY

The **Financial Stress Class of 3** for this company shows that firms with this class had a failure rate of 0.24% (24 per 10,000), which is lower than the average of businesses in D&B's database

The **Credit Score class of 2** for this company shows that 10.6% of firms with this class paid one or more bills severely delinquent, which is lower than the average of businesses in D&B's database.

Predictive Scores	This Business	Comments
<b>Financial Stress Class</b>	3	Failure Rate lower than the average of businesses in D&B's database
<b>Financial Stress Score</b>	1502	Highest Risk: 1,001; Lowest Risk: 1,875
<b>Credit Score Class</b>	2	Probability of Severely Delinquent Payment is lower than the average of businesses in D&B's database.
<b>Credit Score</b>	481	Highest Risk: 101; Lowest Risk: 670
<b>Other Key Indicators</b>		
<b>PAYDEX Scores</b>	generally within terms	Pays same as the average for its industry of generally within terms
<b>Industry Median</b>	generally within terms	
<b>Present management control</b>	9 years	
<b>UCC Filings</b>	UCC filing(s) are not reported for this business	
<b>Public Filings</b>	No record of open Suit(s), Lien(s), or Judgment(s) in the D&B database	

History

Is clear

**CREDIT CAPACITY SUMMARY****D&B Rating:--**

The blank rating symbol should not be interpreted as indicating that credit should be denied. It simply means that the information available to D&B does not permit us to classify the company within our rating key and that further enquiry should be made before reaching a decision. Some reasons for using a "-" symbol include: deficit net worth, bankruptcy proceedings, insufficient payment information, or incomplete history information. For more information, see the D&B Rating Key.

**# of Employees Total:****6 Payment Activity:**  
(based on 4 experiences)

<b>Average High Credit:</b>	<b>\$250</b>
<b>Highest Credit:</b>	<b>\$500</b>
<b>Total Highest Credit:</b>	<b>\$1,000</b>

**Jump to:**

[Overview](#) | [Payments](#) | [Public Filings](#) | [History & Operations](#) | [Banking & Finance](#)

**Scores****FINANCIAL STRESS SUMMARY**

The Financial Stress Score Model predicts the likelihood of business failure which includes ceasing business without paying all creditors in full, reorganization or obtaining relief from creditors under state/federal law over the next 12 months. Scores were calculated using a statistically valid model derived from D&B's extensive data files.

**Financial Stress Class: 3****Probability of Failure**

Among Businesses with this Class: 0.24% (24 per 10,000)

**Financial Stress National Percentile: 64** (Highest Risk: 1; Lowest Risk: 100)

**Financial Stress Score: 1502** (Highest Risk: 1,001; Lowest Risk: 1,875)

Average failure rate of Businesses in D&B's Database: 0.48% (48 per 10,000)

The Financial Stress Score of this business is based on the following factors:

- Limited time under present management control.
- Higher risk legal structure.

**Notes:**

- The Financial Stress Class Indicates that this firm shares some of the same business and financial characteristics of other companies with this classification. It does not mean the firm will necessarily experience financial stress.
- The probability of failure shows the percentage of firms in a given percentile that discontinue operations with loss to creditors. The average probability of failure is based on businesses in D&B's database and is provided for comparative purposes.
- The Financial Stress National Percentile reflects the relative ranking of a company among all scorable companies in D&B's file.
- The Financial Stress Score offers a more precise measure of the level of risk than the Class and Percentile. It is especially helpful to customers using a scorecard approach to determining overall

business performance.

<b>Norms</b>	<b>National %</b>
This Business	64
Region: <b>NORTHEAST</b>	48
Industry: <b>BUSINESS, LEGAL AND ENGINEERING SERVICES</b>	52
Employee Range: <b>1-9</b>	52
Years in Business: <b>6-10</b>	43

This business has a Financial Stress Percentile that shows:

- Lower risk than other companies in the same region.
- Lower risk than other companies in the same industry.
- Lower risk than other companies in the same employee size range.
- Lower risk than other companies with a comparable number of years in business.

#### **CREDIT SCORE CLASS SUMMARY**

The Commercial Credit Score predicts the likelihood that a company will pay its bills in a severely delinquent manner (90 days or more past terms), obtain legal relief from creditors or cease operations without paying all creditors in full over the next 12 months. Scores are calculated using a statistically valid model derived from D&B's extensive data files.

#### **Credit Score Class: 2**

Moderate risk of severe payment delinquency over next 12 months.

#### **Incidence of Delinquent Payment**

Among Companies with this Class: 10.60%  
Average Compared to Businesses in D&B's Database: 23.50%

**Credit Score Percentile: 90** (Highest Risk: 1; Lowest Risk: 100)

**Credit Score: 481** (Highest Risk: 101; Lowest Risk: 670)

The Credit Score of this business is based on the following factors:

- Low number of satisfactory payments.
- Low proportion of satisfactory payment experiences to total payment experiences.
- General area credit conditions.

#### **Notes:**

- The Commercial Credit Score Risk Class indicates that this firm shares some of the same business and financial characteristics of other companies with this classification. It does not mean the firm will necessarily experience severe delinquency.
- The probability of delinquency shows the percentage of firms in a given percentile that are likely to pay creditors in a severely delinquent manner. The average probability of delinquency is based on businesses in D&B's database and is provided for comparative purposes.
- The Commercial Credit Score percentile reflects the relative ranking of a firm among all scorable companies in D&B's file.
- The Commercial Credit Score offers a more precise measure of the level of risk than the Risk Class and

## EXHIBIT C-7 CREDIT REPORT

Percentile. It is especially helpful to customers using a scorecard approach to determining overall business performance.

### Norms                      National %

This Business	90
Region: <b>NORTHEAST</b>	57
Industry: <b>BUSINESS, LEGAL AND ENGINEERING SERVICES</b>	46
Employee Range: <b>1-9</b>	66
Years in Business: <b>6-10</b>	48

This business has a Credit Score Percentile that shows:

- Lower risk than other companies in the same region.
- Lower risk than other companies in the same industry.
- Lower risk than other companies in the same employee size range.
- Lower risk than other companies with a comparable number of years in business.

### Jump to:

[Overview](#) | [Scores](#) | [Public Filings](#) | [History & Operations](#) | [Banking & Finance](#)

## Payments

### PAYMENT TRENDS

<b>Total Payment Experiences for the HQ in D&amp;B's File:</b>	4	<b>Current PAYDEX is:</b>	80	equal to generally within terms
<b>Payments Within Terms:</b> (not dollar weighted)	100%	<b>Industry Median is:</b>	80	equal to generally within terms
<b>Total Placed For Collection:</b>	0	<b>Payment Trend currently is:</b>		unchanged, compared to payments three months ago
<b>Average Highest Credit:</b>	\$250			
<b>Largest High Credit:</b>	\$500			Indications of slowness can be the result of dispute over merchandise, skipped invoices, etc. Accounts are sometimes placed for collection even though the existence or amount of the debt is disputed.
<b>Highest Now Owning:</b>	\$250			
<b>Highest Past Due:</b>	\$0			

### PAYDEX Scores

Shows the D&B PAYDEX scores as calculated on the most recent 3 months and up to 24 months of payment experiences.

The D&B PAYDEX is a unique, dollar weighted indicator of payment performance based on up to payment experiences as reported to D&B by trade references. A detailed explanation of how to read and interpret PAYDEX scores can be found at the end of this report.

**3-Month D&B PAYDEX: 80**

When weighted by dollar amount, payments to suppliers average within terms.

Based on payments collected over last 3 months.

**D&B PAYDEX: 80**

When weighted by dollar amount, payments to suppliers average generally within terms.

Based on up to 24 months of payments.

**PAYDEX Yearly Trend****PAYDEX Scores Comparison to Industry**

	9/09	10/09	11/09	12/09	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10
<b>This Business</b>	80	80	80	80	80	80	80	80	80	80	80	80
<b>Industry Quartiles</b>												
Upper	80			80			80			80		
Median	80			80			80			80		
Lower	71			71			70			68		

- Current PAYDEX for this Business is 80, or equal to generally within terms
- The 12-month high is **80**, or equal to generally within terms
- The 12-month low is **80**, or equal to generally within terms

**PAYDEX Comparison to Industry**

Shows PAYDEX scores of this Business compared to the Primary Industry from each of the last four quarters. The Primary Industry is Business consulting energy & telecommunications, based on SIC code 8748.

**Quarterly PAYDEX Scores Comparison to Industry**

Previous Year					Current Year				
	9/08	12/08	3/09	6/09		9/09	12/09	3/10	6/10
<b>This Business</b>	80	80	80	80	<b>This Business</b>	80	80	80	80
<b>Industry Quartiles</b>					<b>Industry Quartiles</b>				
Upper	80	80	80	80	Upper	80	80	80	80
Median	80	80	80	80	Median	80	80	80	80
Lower	72	71	71	72	Lower	71	71	70	68

- Current **PAYDEX** for this Business is **80**, or equal to generally within terms
- The present industry **median score** is **80**, or equal to generally within terms.
- Industry upper quartile represents the performance of the payers in the 75th percentile
- Industry lower quartile represents the performance of the payers in the 25th percentile

**Payment Habits**

For all payment experiences within a given amount of credit extended, shows the percent that this Business paid within terms. Provides number of experiences used to calculate the percentage, and the total dollar value of the credit extended.

**Dollar Range Comparisons:**

<b>\$ Credit Extended</b>	<b># Payment Experiences</b>	<b>\$ Total Dollar Amount</b>	<b>% of Payments Within Terms</b>
OVER \$100,000	0	\$0	0



# EXHIBIT C-7 CREDIT REPORT

\$50,000 - 99,999	0	\$0	0
\$15,000 - 49,999	0	\$0	0
\$5,000 - 14,999	0	\$0	0
\$1,000 - 4,999	0	\$0	0
Under \$1,000	2	\$500	100

Payment experiences reflect how bills are met in relation to the terms granted. In some instances, payment beyond terms can be the result of disputes over merchandise, skipped invoices, etc.

## PAYMENT SUMMARY

The Payment Summary section reflects payment information in D&B's file as of the date of this report.

There are 4 payment experiences in D&B's file, with 3 experiences reported during the last three month period.

Below is an overview of the company's dollar-weighted payments, segmented by its suppliers' primary industries:

	Total Rcv'd (#)	Total Dollar Amts (\$)	Largest High Credit (\$)	Within Terms (%)	Days Slow <31 31-60 61-90 90> (%)			
<b>Top industries:</b>								
Radiotelephone commun	1	250	250	100	0	0	0	0
Nonclassified	1	250	250	100	0	0	0	0
Whol electrical equip	1	0	0	0	0	0	0	0
<b>Other payment categories:</b>								
Cash experiences	1	500	500					
Payment record unknown	0	0	0					
Unfavorable comments	0	0	0					
<b>Placed for collections:</b>								
With D&B	0	0	0					
Other	0	N/A	0					
Total in D&B's file	4		500					

The highest **Now Owes** on file is \$250 The highest **Past Due** on file is \$0

Accounts are sometimes placed for collection even though the existence or amount of the debt is disputed. Indications of slowness can be result of dispute over merchandise, skipped invoices, etc.

## PAYMENT DETAILS

### Detailed payment history for this company

Date Reported (mm/yy)	Paying Record	High Credit (\$)	Now Owes (\$)	Past Due (\$)	Selling Terms	Last Sale Within (months)
07/10	Ppt	250	50	0		1 mo
06/10	(002)	500			Cash account	1 mo

## EXHIBIT C-7 CREDIT REPORT

	Cash own option.					
05/10	Ppt	250	250	0		1 mo
07/09	Ppt	0	0	0	N30	6-12 mos

**Payments Detail Key:** red = 30 or more days beyond terms

Each experience shown is from a separate supplier. Updated trade experiences replace those previously reported.

**Jump to:**

[Overview](#) | [Scores](#) | [Payments](#) | [History & Operations](#) | [Banking & Finance](#)

**Public Filings****PUBLIC FILINGS**

A check of D&B's public records database indicates that no filings were found for BETTER COST CONTROL LLC at 2274 Washington St, Newton MA.

D&B's extensive database of public record information is updated daily to ensure timely reporting of changes and additions. It includes business-related suits, liens, judgments, bankruptcies, UCC financing statements and business registrations from every state and the District of Columbia, as well as select filing types from Puerto Rico and the U.S. Virgin Islands.

D&B collects public records through a combination of court reporters, third parties and direct electronic links with federal and local authorities. Its database of U.S. business-related filings is now the largest of its kind.

**GOVERNMENT ACTIVITY****Activity summary**

Borrower (Dir/Guar):	NO
Administrative debt:	NO
Contractor:	NO
Grantee:	NO
Party excluded from federal program(s):	NO

**Possible candidate for socio-economic program consideration**

Labor surplus area:	N/A
Small Business:	YES (2010)
8(A) firm:	N/A

The details provided in the Government Activity section are as reported to Dun & Bradstreet by the federal government and other sources.

**Jump to:**

[Overview](#) | [Scores](#) | [Payments](#) | [Public Filings](#) | [Banking & Finance](#)

**History & Operations****HISTORY**

The following information was reported **08/06/2010**:

**Management:** STEVE GARSON, MEMBER

Ownership information provided verbally by Steve Garson, Member, on Sep 26 2005.

Business started 2001.

STEVE GARSON. 2001 - present BETTER COST CONTROL LLC.

Business address has changed from 54 Saint Marys St, Newton, MA, 02462 to 2274 Washington St, Newton, MA, 02462.

## BUSINESS REGISTRATION

CORPORATE AND BUSINESS REGISTRATIONS REPORTED BY THE SECRETARY OF STATE OR OTHER OFFICIAL SOURCE AS OF JUL 26 2010:

**Registered Name:** BETTER COST CONTROL, LLC

**Business type:** DOMESTIC LIMITED LIABILITY CO

**State of organization:** MASSACHUSETTS

**Filing date:** FEB 11 2002

**Registration ID:** 900009071

**Status:** ACTIVE

**Where filed:** SECRETARY OF THE COMMONWEALTH/CORPORATIONS DIVISION, BOSTON, MA

**Registered agent:** STEVEN GARSON, 54 ST. MARY'S ST., NEWTON, MA, 024621019

**Principals:** STEVEN I GARSON, MANAGER, 2274 WASHINGTON STREET, NEWTON, MA, 024620000  
STEVEN I GARSON, MANAGER, 2274 WASHINGTON STREET, NEWTON, MA, 024620000  
STEVEN GARSON, REAL PROPERTY, 54 ST. MARY'S ST., NEWTON, MA, 024621019  
STEVEN GARSON, SOC SIGNATORY, 54 ST. MARY'S ST., NEWTON, MA, 024621019

## OPERATIONS

08/06/2010

**Description:** Provides business consulting services, specializing in telecommunications.

Terms are on a retainer plus additional billings, contractual basis, net 15 days, on a fee basis and on a commission basis. Has 25 account(s). 25% of sales on the internet. Sells to manufacturers, wholesale, non profit organizations, retail, commercial concerns and government. Territory : International.

**Employees:** 6 which includes partners.

**Facilities:** Leases premises on 1st floor of 2 story brick building.

## SIC & NAICS

### SIC:

Based on information in our file, D&B has assigned this company an extended 8-digit SIC. D&B's use of 8-digit SICs enables us to be more specific to a company's operations than if we use the standard 4-digit code.

### NAICS:

541690 Other Scientific and Technical Consulting Services

The 4-digit SIC numbers link to the description on the Occupational Safety & Health Administration (OSHA) Web site. Links open in a new browser window.

87480302 Telecommunications consultant

## Jump to:

[Overview](#) | [Scores](#) | [Payments](#) | [Public Filings](#) | [History & Operations](#)

## Banking & Finance

### KEY BUSINESS RATIOS

D&B has been unable to obtain sufficient financial information from this company to calculate business ratios. Our check of additional outside sources also found no information available on its financial performance. To help you in this instance, ratios for other firms in the same industry are provided below to support your analysis of this business.

Based on this number of establishments: 36

#### Industry Norms based on 36 establishments

	This Business	Industry Median	Industry Quartile
<b>Profitability</b>			
Return on Sales	UN	4.8	UN
Return on Net Worth	UN	33.0	UN
<b>Short-Term Solvency</b>			
Current Ratio	UN	2.5	UN
Quick Ratio	UN	2.1	UN
<b>Efficiency</b>			
Assets Sales	UN	33.7	UN
Sales / Net Working Capital	UN	6.5	UN
<b>Utilization</b>			
Total Liabs / Net Worth	UN	63.1	UN

UN = Unavailable

### FINANCE

08/06/2010

On August 6, 2010, Steve Garson, Pres-CEO, confirmed company name, address, principals and operational information using Dun & Bradstreet's Internet-based update method (eUpdate) at [www.dnb.com](http://www.dnb.com).

### CUSTOMER SERVICE

If you have questions about this report, please call our Customer Resource Center at 1.800.234.3867 from anywhere within the U.S. If you are outside the U.S. contact your local D&B office.

\*\*\* Additional Decision Support Available \*\*\*

Additional D&B products, monitoring services and specialized investigations are available to help you evaluate this company or its industry. Call Dun & Bradstreet's Customer Resource Center at 1.800.234.3867 from anywhere within the U.S. or visit our website at [www.dnb.com](http://www.dnb.com).

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**C-8 Exhibit C-8 "Bankruptcy Information,"**

**Not Applicable to Applicant**

# **AFFIDAVIT**

State of Massachusetts :

Newton ss.  
(Town)

County of Middlesex :

Steve Garson, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/She is the Managing Member (Office of Affiant) of Better Cost Control, LLC (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant,

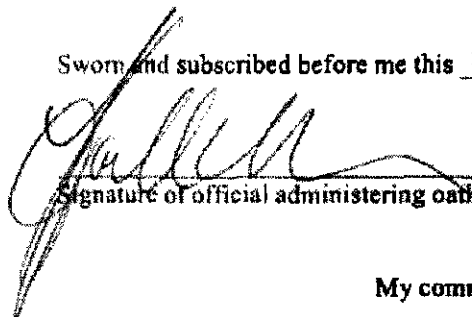
1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

  
Signature of Applicant & Title

Sworn and subscribed before me this 26th day of October, 2010  
Month Year

  
Signature of official administering oath

Hannah Wells, Notary  
Print Name and Title

My commission expires on  ~~Commonwealth of Massachusetts~~  
My Commission Expires  
February 18, 2016

original signature +  
notary seal is on  
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