

The Client appoints Baycorp (NZ) Limited ("Baycorp") on these Standard Collection Terms to collect all debts referred by the Client to Baycorp from time to time.

## Agreement for Use of Our Collection Services

### 1. Introduction

1.1 This agreement applies when we, Baycorp, supply any standard debt collection services (our "collection services"), to you, our Client.

**Note:** Additional terms apply to some of the services we supply; we will tell you if additional terms apply to any service you use.

### 2. Supply of our Collection Services

2.1 We will supply our collection services to you when you ask us to. You must ask us by giving us written instructions utilising our standard collection instructions form ("collection instructions").

**Note:** For our current standard collection instruction form, see our website at [www.baycorp.co.nz](http://www.baycorp.co.nz). However, if you:

- load information through our internet site or if you bulk-load information, different procedures will apply. We will tell you about those different procedures if they apply to you;
- give us oral instructions at any time, you will confirm such instructions in writing on our collection instruction form at the earliest opportunity and if this is not done, the standard terms and conditions in force at the time the instructions are given shall be deemed to apply to the instructions.

2.2 We will:

- do everything we reasonably can to follow the specific collection instructions you select from our standard options for collection;
- instruct other people to help us with legal proceedings or to do a field visit, if you ask us to. Those people might include lawyers or field service agents. You must pay our additional fees relating to those services;
- if the debt has not been paid or disputed 14 days after we receive your collection instructions, we may record information about the debtor and the debt with a credit reporting agency, and update that information if practicable. Both the credit reporting agency and ourselves can then use the information for any purpose we, respectively, are legally allowed to use it for. We do not usually remove any information from our systems or from those of a credit reference agency unless we think the information is misleading, or that it is not accurate, up to date or complete. It is our decision whether we ask for removal of the information;
- seek instruction from you before accepting any offer for payment of a debt where the offer is less than the full amount of the debt except where the circumstances are such as to require immediate acceptance of the offer, in which case, we may accept such an offer in settlement of the debt as we consider reasonable in the circumstances;
- promptly pay any payments we receive on your behalf into a Group Trust Account nominated by us and account to you for those payments each month after deducting all commissions, fees, charges and disbursements relating to our collection services, except where alternate arrangements have been agreed with us;
- stop any action on any collection instruction if you write and ask us to.

2.3 To allow us to supply the collection services, you agree:

- at the time you give us the collection instructions, to make sure you give us all the information you have about the debt and the debtor. This includes copies of all documents and any other information we need to recover the debt;
- to make sure all information you give us relating to your collection instructions is accurate, up to date, complete and that it is not misleading;  
**Note:** For example, if you do not know the current address of the debtor, you should give us the last known address, and tell us that you do not believe this is current any more.
- to give us all reasonable assistance that we need (for example, signing powers of attorney and notices), or that we ask you to give us;
- to tell us immediately if you receive any payment towards the debt, any communication from the debtor about the debt or collection instructions, or if you become aware of any changes to any information about the debtor;
- before you ask us to collect a debt, to take reasonable steps to tell the debtor you are referring

the debt to the debtor and debt may be held by a credit reporting agency and given to customers when they use that agency's services;

- if you tell us to recover costs as well as a debt, to make sure that you have the legal ability to recover those costs.

2.4 You understand that payments we pay into our nominated Group Trust Account and that we subsequently pay to you may not be cleared funds. If the bank does not honour any such payment, you must refund to us the relevant amount.

### 3. Other Terms for Supply of Our Collection Services

3.1 You must comply with this agreement and follow our procedures and any other instructions we provide when you use our collection services. If we change any of our procedures or instructions, or if we introduce new ones, we will let you know in reasonable time taking into account the nature of those changes.

3.2 If we give you a user name, password, or other identifier to use any of our collection services, you must keep the identifier confidential. You are responsible for all use of that identifier. If we ask you to, you must stop using that identifier, or use a replacement identifier we give you.

3.3 If we ask you to, you will provide us with one contact person within your organisation, or one contact for each branch of your organisation. That person will be responsible for liaising with us about the requirements of this agreement.

3.4 You must promptly provide us with the information we need and co-operate with us if we need to substantiate the debt, investigate any requests for correction of the information we hold or if we need your help to resolve any enquiry or complaint about that information.

3.5 When we provide our collection services to you, we must comply with the Privacy Act 1993 and all other laws that apply to our services.

3.6 When you use any of our collection services or the information we give you, you must comply with the Privacy Act 1993, and all other laws that apply to your use of our collection services or information.

3.7 When you utilise our Internet On-Line facility to access our collection services you will adopt appropriate anti virus measures and security precautions to prevent unauthorised use and access to the Internet On-Line facility and at all times keep access to the Internet On-Line facility secure.

3.8 We reserve the right to cease action on any collection instructions received from you and refer a debt back to you where a sensitive issue has arisen or may arise in respect of a debt that could reasonably be seen to have potential to cause adverse publicity for us or you.

### 4. Our Charges

4.1 You must pay us:

- our current charges for any service you use;
- our fees for any additional or third party services or other disbursements we incur in carrying out the collection services;
- commission in relation to moneys we receive in the Group Trust Account, payments made directly to you, credits agreed with you, and all other matters acceptable to you in reduction or satisfaction of a debt;
- any other fees we tell you about for our collection services (these might include a search fee for locating you if you fail to tell us your address changes, or a closure fee where you withdraw debt collection instructions from us; this fee is 5% of the total amount of the debt initially outstanding);
- GST (if applicable) on our fees and charges.

4.2 A schedule of our current charges, commissions and fees is available on request to us. We may change our charges, commissions and fees from time to time. We will tell you when the new charges, commissions and fees will apply from.

4.3 Except where prior arrangements have been made with us, we will deduct our respective commissions, fees, disbursements, charges and GST (if applicable) out of any payments we receive on your behalf.

4.4 Where commissions, fees, disbursements, charges and GST (if applicable) are not deducted out of any payments received by us on your behalf, you shall pay all invoices issued for such commissions, fees, disbursements, charges and GST (if applicable) on the 20th of the month following the month in which an invoice was issued to you. If you do not pay us by the due date for payment, we may:

- charge interest on the amount overdue at 2% per month from the due date for payment until the date on which the debt is paid;

- require you to pay us any costs we or our agents incur in recovering money you owe us, including

commissions and legal costs on a solicitor-client basis;

- list information about the default with a credit reporting agency.

### 5. Term, Termination and Suspension

5.1 This agreement continues until either of us terminates it by giving 30 days written notice to the other.

5.2 If this agreement is terminated the clauses that are intended to survive termination of this agreement include but are not limited to clauses 3.4, 3.5, 3.6, 4, 6 and 7.6.

5.3 We may withhold or suspend your use of our collection services immediately if you do not pay our fees and charges for any service or if we reasonably believe you are not complying with any of your other obligations under this agreement or any other agreement you have with us.

### 6. Compensation and Liability

6.1 When you use our collection services, we have agreed to follow the specific collection instructions you select from our standard options for collection. If we do not follow those instructions, we are liable to you for any direct loss you suffer from our failure to follow those specific instructions. However, our liability is limited for any event or series of events to the lesser of \$1,000 or 5% of the value of the debts to which your claim relates but never more in any 12 month period than the amount you have paid us for the collection services in that 12 month period.

6.2 We exclude all liability we may have to you whatever you are claiming for (including loss of profits or business) and however liability arises or might arise if it were not for this clause. This exclusion does not apply to anything the law prohibits us excluding liability for, or for the liability we accept under clause 6.1.

6.3 You agree that you are acquiring our services for the purposes of a business as defined in the Consumer Guarantees Act 1993. The provisions of that Act do not apply to the services we provide to you under this or under any other written agreement you have with us.

6.4 If we suffer loss or incur liability:

- because any information you give us is not accurate, up to date or complete, or is otherwise misleading;
- because of your conduct, or the manner in which a debt was incurred, you indemnify us to the full extent for that loss suffered or liability incurred. This includes all lawyer's fees, and all actual court costs, fees, expenses and disbursements. At our option, you agree to assume the conduct of any proceedings brought against us relating to the supply of inaccurate, out of date, incomplete or otherwise misleading information you have given us, and to pay all costs and damages associated with those proceedings. If we decide to retain conduct of proceedings, you agree to provide all documents and assistance as we may reasonably request.

6.5 In this clause 6, references to we and us include our officers, employees, contractors, and agents.

### 7. General

7.1 We may change this agreement by amending or deleting terms or by adding new terms. Changes may take the form of a new agreement. We will always give you at least one month's notice in writing before we do this.

7.2 Where we have used the words "includes" or "including", or "for example", these words do not have a limiting effect.

7.3 Neither of us is liable for a failure or delay in performing an obligation under this agreement to the extent the failure or delay is because of an event beyond our reasonable control.

7.4 We will send bills and notices to either the last postal address, fax number or email address you have given to us. You must tell us if you change any of those contact details.

7.5 You must not transfer your rights or your obligations under this agreement to any other person without first getting our written consent. We will not unreasonably withhold our consent.

7.6 No delay or failure to exercise a right under this agreement prevents the exercise of that or any other right on that or any other occasion.

7.7 New Zealand law applies to this agreement.

7.8 If any term of this agreement is unlawful and unenforceable, it will be severed from this agreement and the rest of this agreement remains in force.

7.9 This agreement supersedes any other agreement you have with us for our standard collection services.