

# THOMAS HIGGINS LIMITED Solicitors

## TERMS & CONDITIONS OF BUSINESS

### Introduction

These Terms and Conditions of Business (“Terms”) set out the general terms upon which Thomas Higgins Limited will provide debt collection services. Please read them carefully as you will be bound by them and apply to any matter on which you engage us unless and until we notify you of any variations.

### 1 About Us

1.1 Thomas Higgins Limited is a Firm of Solicitors licensed and regulated by the Solicitors Regulation Authority – SRA number 630440. You can access the Solicitor’s Handbook at <http://sra.org.uk/handbook>

1.2 We are situated at:

Lloyds Chambers, 19-21 Seaview Road, Wallasey, CH45 4TH.

Our contact details:

Tel:- 0151 630 8006

Fax:- 0151 630 8005

Email:- [debt.recovery@thomashiggins.com](mailto:debt.recovery@thomashiggins.com)

1.3 Our hours of business are 9.30am - 1.00pm 2.00pm - 5.00pm Monday to Friday, although you can access your account online 24/7 at [www.thomashiggins.com](http://www.thomashiggins.com)

1.4 We are a Firm of Solicitors specialising exclusively in undisputed commercial debt collection of debts where the English and Welsh courts have jurisdiction and enforcement by instructing the County Court Bailiff or High Court Enforcement Officer. If a Defence is filed or an application to set aside the Judgment, we will write to you and send you a copy. At that stage you will have a choice to either, instruct us to negotiate a settlement, take over the case personally or transfer to alternative solicitors. We can recommend an alternative litigation Firm, should you have any difficulty in appointing another Firm.

1.5 We pride ourselves on being fast, efficient, cost effective and approachable. We are always happy to deal with any enquiries you may have.

1.6 Thomas Higgins, Director has the overall responsibility for the conduct of your cases, although the day to day handling will be by one of our experienced Collection Teams. Depending on what stage your claim has reached, will determine which team is dealing with the matter. All staff will have access to any of your cases in the event that you are unsure what stage the case has reached.

1.7 We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

### 2 Costs & Fees

2.1 You have been provided with and access to and/or a hard copy of our Costs & Fees which sets out the charges you will be invoiced for work we carry out on your behalf. Our costs and fees can be obtained from [www.thomashiggins.com](http://www.thomashiggins.com) or available on request.

Thomas Higgins Limited, Registered In England & Wales: 10177315  
Registered Office: Lloyds Chambers 19-21 Seaview Road, Wallasey, CH45 4TH  
Licensed and regulated by the Solicitors Regulation Authority SRA Number: 630440

2.2 Our charges are set out in the "costs" column on the Costs & Fees table. Our costs are quoted exclusive of VAT. Fees are any disbursements we pay out on your behalf to a third party e.g. the Court fee. We do not operate on a "no win no fee" basis. Our charges are payable regardless of the eventual outcome. We do not offer a guarantee of success as this will be determined by the defendant's circumstances. You must take this into account when considering the commercial viability of commencing proceedings.

2.3.1 Our Letter Before Action service is subject to a fair usage policy. Where a client is deemed to be using our Letter Before Action service without using any other service for extended periods of time, we reserve the right to increase the cost of our Letter Before Action service to that client.

2.4 When a case falls out of the standard debt collection process, other costs and fees may be payable for example, should the Court proceedings require an amendment etc. You will be informed in advance of any cost/fees prior to undertaking the work and we will not proceed without your authority to do so.

### **3. Scope of Engagement**

3.1 Any instructions we receive from an employee/staff member of your Company, or other third party will be deemed to be acting on your authority.

#### Responsibilities

3.2 The work we do will be acting on your instructions to send a Letter Before Action ("LBA"), process Court Action and issue Judgment (CCJ) and Enforcement. We aim to do this on the day of receipt of your instructions provided they are received before 4pm and that we have all the necessary information. You need to ensure, at each stage, that your Debtor is not formally insolvent. You can check [www.gov.uk/government/organisations/insolvency-service](http://www.gov.uk/government/organisations/insolvency-service) or make your own enquiries.

3.3 ARBITRATION CLAUSE – Under The Arbitration Act 1996 proceedings cannot be issued if there is a binding Arbitration agreement in the contract.

3.4 We will forward you any payments/notification of cheques payable to our Firm, correspondence or telephone notes that we receive on the day of receipt, or if after 4pm the following day.

3.5 We will update you with progress regularly. We will advise you of any relevant changes in the law. We will also advise you of any circumstances and risks of which we are aware or consider to be reasonably foreseeable that could affect the outcome of your matter. We cannot guarantee that full recovery will be achieved as there are various possible outcomes e.g. the financial position of your Debtor, an absconding Debtor who cannot be traced or any dispute they may raise amongst other things.

3.6 Conflict of interest – if we are instructed to send an Letter Before Action to an active client of ours we will send a polite reminder letter and explain to both clients that we will be unable to continue to act for either party.

3.7 Where we instruct other professionals on your behalf (for example a barrister or High Court Enforcement Officer) we will do so with care but we cannot be held liable for any act or omission of those professionals, unless otherwise agreed in writing. You will always be responsible for the fees and expenses incurred by them on our instruction. We may pass on your details in the event of non-payment of their charges.

3.8 You will always remain responsible for any commercial decision you make and we cannot advise on the commercial or financial decisions that you make on any matter that we are instructed on. You need to decide if it is cost effective to pursue the Debtor taking into account the value of the debt and the costs and fees you will incur in any event.

3.9 You may be required to agree to a form of alternative dispute resolution, which is a non-court related forum for resolving disputes, usually by mediation or arbitration. Failure to agree to undergo this process may prejudice your claim and may result in you incurring cost penalties, for which we will have no liability. Such dispute resolution procedures may also increase your costs liability.

3.10 Before you send us your instructions, you will have made a final demand for payment and provided your debtor with all the relevant documentation/information. Where appropriate you will have complied with any relevant Pre-Action Protocols/Practice Directions found at [www.justice.gov.uk/courts/procedure-rules/civil/protocol](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol) & conducted insolvency searches at [www.insolvencydirect.bis.gov.uk](http://www.insolvencydirect.bis.gov.uk)

3.11 You must not instruct us on any disputed matters unless you consider there is no genuine dispute.

3.12 Any instructions you provide should be clear and accurate. This includes providing us with accurate information about your debtor. Please bear in mind that we do not know your debtor and we will act in good faith in processing the information which you provide. The debt must not be more than 6 years old as it is potentially statute barred. You must not instruct us on debts regulated under the Consumer Credit Act 1974.

3.13 Any documentation relevant to the matter is to be kept safe and secure by you and if we require a copy you must provide it in a timely manner.

3.14 In certain circumstances you may become liable for the costs of other parties, for example this may arise where proceedings are brought against the incorrect party or you have issued proceedings incorrectly or prematurely, this is not an exhaustive list and we will inform you should this occur.

3.15 Closing off a matter - Because of the nature of our work, it is not our practice to send a closing letter. We close off our files if we receive full payment, the debtor becomes insolvent, you instruct us to close, or we are without further instructions from you. We will hold your case information for 6 months if the case was a LBA, LPD or PAP letter only if the case proceeded past the Letter stage we will hold it for 6 years 1 month.

3.16 All Instruction Forms/documents/material is the copyrighted property of Thomas Higgins Limited and should not be sent to your Debtor or any other third party without our express written consent.

#### **4 Billing and Payment of Accounts**

4.1 All our invoices are subject to VAT at the prevailing rate.

4.2 Our invoice will be issued to you at the end of the week for all the work carried out during that week. Funds pre-paid will show as a contra against your invoice with any balance to be paid within our strict payment terms of 7 days from date of invoice.

4.3 Pre-payment will be required for all submissions.

4.4 We may on occasion accept payment by BACS. We are unable to accept cash payment in excess of £250.00.

4.5 We reserve the right to claim compensation and interest under The Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 and 2013.

4.6 Where our invoices remain unpaid we will exercise our right to retain the file until payment is made. We also reserve the right to place your account on stop until payment is made and to deduct any monies due to our Firm from funds received from any of your debtors.

4.7 If you object to any element of our invoice, then you may have the right to apply to the court for an assessment whether the charges we have made are fair under Part III of the Solicitors Act 1974.

4.8 In the event that we stop acting for you, despite the fact that the matter is not completed, you remain liable for such further costs and fees which we may unavoidably incur. For example we may have to apply to the Court for a Court Order removing us from the Court's record as acting on your behalf.

## **5 Money Laundering Regulations**

5.1 The law requires solicitors to get satisfactory evidence of the identity of their clients and sometimes people related to them. This is because solicitors who deal with money and property on behalf of their client can be used by criminals wanting to launder money.

5.2 To comply with the law, we need to get evidence of your identity.

5.3 The regulations require us to:

- Obtain information about a client's identity and to verify that information.
- Obtain identity information about people related to the client (beneficial owners), where relevant, and at times verify that information.
- Continue to monitor the transaction and keep identity information up to date.

5.4 Due to the regulations we limit the amount of cash that we are able to accept. The fact that we refuse to accept cash does not mean that we suspect you of being involved in money laundering or other criminal activity, but the rules impose criminal sanctions on solicitors who do not report receipt of significant sums of cash. We trust that you appreciate therefore that it is safer for us to simply refuse to accept cash payments in excess of £250.

5.5 We are professionally and legally obliged to keep your affairs confidential. However, solicitors may be required by statute to make a disclosure to the National Crime Agency (NCA) where they know or suspect that a transaction may involve money laundering or terrorist financing. If we make a disclosure in relation to your matter, we may not be able to tell you that a disclosure has been made. We have to stop working on your matter for a period of time and may not be able to tell you why.

5.6 We will not be liable for any loss, damage or delay arising out of the firm's compliance with any statutory or regulatory requirement.

## **6 Money we receive**

6.1 We ask that any payments are made to you directly. In the event we do receive money made payable to this company, it will be paid into our Client Account and sent to you upon clearance by faster payment, (if you have completed a Direct Debit mandate in place for payment of our invoices), or cheque. Please note it remains your responsibility to ensure your Direct Debit information remains fully updated on our system. Payments released to you by faster payment will be done so using the bank details provided upon your completed Direct Debit mandate. We would not release funds by cash or to a third party. We reserve the right to deduct any monies due to this company from funds received.

6.2 We bank with the NatWest Bank; however, we will not be liable to repay money lost through a banking failure and/or your failure to provide correct banking details or correct information on your completed Direct Debit mandate and ensuring that information remains accurate.

### **6.3 Residual balances/unpresented cheques**

We have a regulatory obligation not to hold any residual balances which includes unpresented cheques. When we have a residual balance we will deal with as follows:

We will make all the necessary and appropriate enquiries/investigations to contact you.

#### **Values up to £20.00**

Month 1 We will attempt to contact you by telephone - using all numbers we have on file.

Month 2 We will write to you at the address we have on file.

Month 3 If we have been unsuccessful in making contact we will donate the funds to Charity.

## **Values of £20.00 - £500.00**

Month 1 & 2 as above

Month 3 We will write a further letter to all addresses we have on file and/or alternative address discovered on making further investigations.

Month 4 If we have been unsuccessful in making contact we will donate the funds to Charity.

## **Values in excess of £500.00**

Month 1 – 3 as above

After making further investigations, under our regulatory obligations for such amounts exceeding £500.00 we have to apply to the SRA for permission to donate the funds to Charity.

## **7 Payment of Interest**

7.1 Any money received will generally be sent to you immediately upon clearance and so no interest is due. Any monies that are held in our Client Account that attracts interest, will be calculated and paid to you at the rate set by the NatWest Bank. The payment of interest is subject to certain minimum amounts and periods of time set out as follows:

£1000.00 – 8 weeks, £2000.00 – 4 weeks, £10,000.00 – 2 weeks, £20,000.00 – 1 week. We will not pay interest if the amount calculated is £20.00 or less.

## **8 Data Protection & Confidentiality**

8.1 We are professionally and legally obliged to keep your affairs confidential. We are also legally obliged to and do fully comply with the General Data Protection Regulation 2016 (GDPR), Data Protection Act 2018.

8.2 We use the information you provide primarily for the provision of legal services to you and for related purposes including: updating and enhancing client records, analysis to help us manage our practice, legal and regulatory compliance. This information includes all instructions that you provide us and we would ask you to note that all telephone calls into and from this office are recorded for training and monitoring purposes and for clarification of any verbal instructions. We may share these recordings with your new legal representatives should this be necessary.

8.3 Our use of that information is subject to your instructions, the General Data Protection Regulation 2016 (GDPR), Data Protection Act 2018 and our duty of confidentiality. Please note that our work for you may require us to give information to third parties such as other professional advisers. You have a right of access under the data protection legislation to the personal data that we hold about you.

8.4 To assist the debtor to make payment to you directly, our correspondence will include a remittance advice slip which will include your name, address and telephone number.

8.5 External Firms or organisations may conduct audit or quality checks on our practice. These external Firms or organisations are required to maintain confidentiality in relation to your files.

8.6 Documents/Correspondence - We operate a paperless office and our files are in electronic format. All correspondence received is scanned onto our system; we do NOT retain original documentation. We ask that you DO NOT forward to us any original documentation but good clear copies; in the event that you do send us originals please ensure that you inform us so that we may take a copy and return the original to you for your retention.

8.7 For further information on the General Data Protection Regulation 2016 (GDPR), Data Protection Act 2018 please see our Privacy Statement which is available at [www.thomashiggins.com](http://www.thomashiggins.com)

8.8 Before sending any information to us about your debtor you must make sure you have your debtor/customer's permission to do this. For example, you could obtain this consent by including this as a term in any agreed Terms of Business.

## **9 Client Care - Complaints**

9.1 We pride ourselves on providing our clients with a fast, efficient and cost effective debt collection service. We are committed to high quality service and client care. It is important to us that you are satisfied with the service you receive. However, should you find that you are dissatisfied with any area of our service or our bill we would request that you please raise it with the person who is handling the matter, with a view to the matter being resolved quickly. If you remain concerned or we could not agree an appropriate course of action, then your complaint should be sent to Andrea Prowse the firm's client care manager:- email:- [andrea.prowse@thomashiggins.com](mailto:andrea.prowse@thomashiggins.com), tel: 0151 630 8030 fax: 0151 630 8031, who will provide you with a copy of our full Complaints Procedure and will attempt to resolve the matter to your satisfaction.

9.2 Your right to complain might relate to the way in which your matter is being handled, or about a bill that we issue. In the case of a complaint about a bill, there might also be a right to object to the bill by applying to the Court for an assessment of the bill under Part III of the Solicitors Act 1974. However, we would point out that if all or part of a bill remains unpaid, we may be entitled to charge interest, such entitlement being set out above.

9.3 If following our Complaints Procedure you remain dissatisfied, you may have the right to complain to the Legal Ombudsman (LeO). [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) tel:- 0300 555 0333. PO Box 6806, Wolverhampton, WV1 9WJ or email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk). Our complaints procedure gives details of the categories of person/organisation that are entitled to complain to the Legal Ombudsman, relevant timescales and the possibility of the complaint being concluded by way of Alternative Dispute Resolution (ADR).

## **10 Anti Bribery & Corruption**

10.1 Thomas Higgins Limited has a strict anti-Bribery & Corruption policy (details of which are available on request). We will not directly or indirectly engage in Bribery or Corruption in any form and we have a zero tolerance approach to breach. Thomas Higgins Limited will never, accept, solicit, agree to receive, promise, offer or give a bribe, facilitation payment, kickback or other improper payment.

10.2 All of our activities are managed in full compliance with this policy and with all applicable legal and regulatory anti-Bribery and Corruption obligations. We expect our clients and other business partners to have similar policies which apply to all dealings with, on behalf of, or involving Thomas Higgins Limited.

10.3 Thomas Higgins Limited does not offer or accept any gifts and/or hospitality.

## **11 Limitation of Liability**

11.1 In accordance with the disclosure requirements our professional indemnity insurer is Zurich Insurance plc. Address: Zurich Professional & Financial Lines, The London Underwriting Centre, 3 Minster Court, Mincing Lane, London EC3R 7DD. The territorial coverage of our policy is worldwide.

11.2 Our liability to you for a breach of your instructions shall be limited to £3,000,000.00. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities.

11.3 We can only limit our liability to the extent the law allows. In particular, we cannot limit our liability for death or personal injury caused by our negligence.

## **12 Governing Law**

12.1 Any dispute or legal issue arising from our terms of business will be determined by the law of England and Wales, and considered exclusively by the English and Welsh courts.

## 13 Our Retainer

13.1 Your continued instructions are an acknowledgement that you have understood and accepted these Terms. We do not operate a client retainer system. To remain a client of Thomas Higgins Limited you must actively be using our Debt Collection Service.

13.2 You may end your instructions to us in writing at any time, but we can keep all your papers and documents while there is still money owed to us for costs and fees, this is known as a lien.

13.3 We may decide to stop acting for you only with good reason for example if you do not pay our bill promptly or there is a conflict of interest, or where your instructions conflict with our rules of professional conduct, or the scope of work does not appear to be undisputed or straightforward commercial debt collection. We must give you reasonable notice that we will stop acting for you. If you or we decide that we should stop acting for you, you will pay our charges up until that point.

## 14. Right to Cancel – individuals, sole traders and small partnerships

14.1 You have 14 days from entering into our debt collection service contract in which you can cancel it without giving any reason or incurring any liability. The cancellation period will expire after 14 days from the day of the conclusion of the contract.

14.2 To exercise the right to cancel you must inform us in writing of your decision by doing one of the following:

- Using the model cancellation form which can be obtained from:  
[www.thomashiggins.com/document-list](http://www.thomashiggins.com/document-list) - Making a clear statement setting out the decision to cancel.
- Send it to us by post: Lloyds Chambers 19-21 Seaview Road, Wallasey CH45 4TH, or by email:  
[debt.recovery@thomashiggins.com](mailto:debt.recovery@thomashiggins.com), or fax 0151 630 8005

14.3 We should not start providing our services before the 14 day cancellation period has ended, unless you have requested this.

14.4 **If you request our service starts straightaway.** In this instance you will still have the right to cancel, but you must pay for the value of the service that is provided up to the point you cancel.

For example, if you instruct us to issue a Letter Before Action and then change your mind within this 14 day time period, you will be charged (as per our Costs & Fees sheet) for the work that we have carried out up to the point of cancellation.

14.5 Effect of cancellation - Cancellation within the relevant period ends the obligations of both you and us.

15. If at any time you require any clarification of the above, then please do not hesitate to contact us.

16. Whilst upon registration you may submit instructions until your account has been accepted / approved and we have completed our required checks, no instructions will be processed. Please therefore be patient as in some cases a delay may occur whilst internal checks are being conducted. We also reserve the right to reject a registration request.

17. Instructions sent via our website or app, which for the avoidance of doubt includes the opening of an account, is subject to review. Review means that the instructions you have provided are in a format which is acceptable to Thomas Higgins Limited and that by the processing of your instruction this does not create any conflict of interest. Review takes place during Thomas Higgins Limited's office hours only.