

# Enterprise Recovery, LLC

## Commercial Collection Services Agreement

This document is a commercial collection services agreement executed by Enterprise Recovery, LLC with an office at 301 Lacey Street West Chester, PA 19382 and "Client", as identified below.

**Client Name:** \_\_\_\_\_

**Client Address:** \_\_\_\_\_

**The effective date of this commercial collection services agreement is:** \_\_\_\_\_

Throughout the remainder of this document:

- This commercial collection services agreement will be referred to as "Agreement"
- Enterprise Recovery, LLC will be referred to as "Agency"
- \_\_\_\_\_ will be referred to as "Client".

### **Agreement:**

1. **Scope of Services:** Client agrees to engage Agency to perform collections on its commercial accounts receivable (A/R) and commercial Bad Debt accounts. Agency will utilize its management team, analytical tools, collections and support personnel, collection software, telephony platform, and collection techniques to execute dunning strategies that maximize the collection rates of Client's delinquent commercial A/R and commercial bad debt accounts.
2. **Cost of Services:**
  - a. **First Party A/R Collections:** Not Applicable
  - b. **Third Party Bad Debt Collections** (Commercial customer invoices and/or commercial accounts written-off to bad debt by Client): Agency will charge Client a contingency fee rate in accordance to the fee rate schedule below, on all gross receipts posted to Agency assigned accounts on or after the Agency assign date (Agency's "Received Date" on Agency's collection operating system). Gross receipts include gross receipts received at Agency's location as well as gross receipts received at Client's location. Client will notify Agency within 2 (two) business days of receipt of funds at their location.

**The agreed contingency fee rate schedule is as follows:**

Account Balance	Fee Rate
\$1000 - \$9,999	30%
\$10,000 - \$24,999	25%
\$25,000 - \$49,999	20%
> \$50,000	15%

As an example: Agency's fee for a \$1,000.00 gross receipt (received at the Agency's location or the Client's location) will amount to \$300.00 (\$1,000.00 X 30% = \$300.00).

If applicable: for any inventory recovered on an agency assigned account, Agency's 30% (thirty percent) contingency fee rate will be applied to the charged amount of the inventory. As an example: for recovered inventory in which the charged amount of the inventory was \$1,000.00, Agency's fee will amount to \$300.00 (\$1,000.00 X 30% = \$300.00).

The age of Client's delinquent accounts receivable, the propensity of lower balance accounts within Client's delinquent accounts receivable, and unusual account volumes (unusually high or unusually low) may create an Agency re-pricing request to Cost of Services (at origination or throughout the term of the agreement). Grace periods, free demand periods, or any period that nullifies fees due to Agency are not applicable to this Agreement. Costs of Services for litigation may carry additional costs and reimbursement requirements (see 3. Litigation Services and 4. Costs of Litigation Services). Any other added services or changes to the Scope of Services for this agreement are subject to additional costs and will be addressed through amendments to this agreement.

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3. **Term of Agreement:** The initial term of this agreement is a 12 (twelve) months agreement that starts from the effective date of this agreement (see effective date at the start of this agreement). This agreement will automatically renew for successive 12 (twelve) month periods unless terminated in writing by either party at least 30 days prior to the end of a 12 (twelve) months period.
4. **Litigation Services (Scope of Litigation Services):** Agency may recommend litigation for non-performing commercial accounts whereby litigation is a logical course of action and litigation carries some probability of collection success. Agency cannot and/or does not perform an asset search of the debtor prior to recommending litigation. Client may request Agency to perform an Asset search of the debtor prior to recommending litigation upon an agreed upon scope of the Asset search and Client agreeing to pay for the costs of the Asset Search as a separate charge. Agency will only initiate litigation on commercial accounts in which Agency has first obtained Client's approval to litigate. Agency will execute and coordinate the execution of litigation activities that lead to the settlement of commercial accounts or judgments obtained against responsible parties. Client agrees to willingly cooperate with any and all activities related to Litigation Services, including but not limited to: the timely execution of legal documents, the timely payment of legal fees and costs, the timely production of documentation, and the availability of witnesses. Due to the uncertainty of legal proceedings, the interpretation and changes in the law and many known and unknown factors, Agency cannot and does not warrant, predict or guarantee the final outcome of any account placed in litigation. In addition, if a judgment is entered against a debtor in any litigation, Agency does not warrant, predict or guarantee that the judgment will be collected as the debtor may not have sufficient assets to satisfy the judgment or it may declare bankruptcy. Scope of Litigation Services for this agreement do not include the management of appeals and/or executing on judgments.
5. **Costs of Litigation Services:** Client agrees to immediately reimburse Agency for Agency advanced litigation costs (litigation costs such as filing fees and court fees). Litigation costs are added to account balances and satisfied first when monies are collected (satisfied collection costs are paid to Client at 0% (zero percent) fee. Agency's contingency fee rate will be evaluated on a case by case basis and may need to be adjusted for factors that add to Agency's costs (litigation requirements, retaining counsel, out of state claims, and so forth).
6. **Client Representations:**
  - a. Any and all commercial A/R and commercial bad debt accounts assigned to Agency by Client are comprised of commercial debt A/R originated through business to business transactions (any debt that is defined as: any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment is not relevant or applicable to this agreement).
  - b. Any and all commercial A/R and commercial bad debt accounts assigned to Agency by Client are accounts arising from a mutually agreeable commercial transaction between Client and Debtor.
  - c. Client will consistently supply Agency with information necessary to substantiate and dun any and all commercial A/R and commercial bad debt accounts assigned to Agency (agreements, invoices, accounting information, account history, and so forth).
  - d. Client will consistently report to Agency within 2 (two) business days of transaction/event occurring at Client's location: payments, adjustments, disputes, or any other relevant account updates.
  - e. Client will not discuss account details and/or make repayment arrangements with any commercial A/R and commercial bad debt account assigned to Agency (Client will direct any and all customer communications to Agency).
7. **Client Statement and Remittance:** Agency shall remit monthly to client, all monies collected (by Agency or by Client) net of its contingency fees, and deliver a client statement before the tenth (10<sup>th</sup>) day of the following month. Invoices requiring remittance due by Client (for direct payments made to Client in excess of payments made to Agency or reimbursements for legal fees) are due and payable within ten (10) business days from invoice date by either wire or ACH payment.
8. **Forwarded Accounts:** Agency reserves the right to forward certain invoices/accounts to an affiliated collection agency (BYL Collection Services, LLC) for collections. Agency will remain responsible to Client for all collection activity on forwarded invoices/accounts.

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9. **Account Recall:** Agency reserves the right to maintain assigned account(s) for no less than two years from the date of last payment. However, if Client wishes to withdraw a placed claim on which arrangements for payment have been made or partial payments made to the Agency or direct to the Client, Client shall be billed and agrees to pay commissions, interest, collection costs and fees and litigation costs and fees due for the balance of the account(s) as if said claim is paid in full. . Accounts approved by Client for litigation may not be cancelled or withdrawn without full payment by Client of approved fees and associated legal costs, including attorney fees, whether or not the litigation is still pending, or whether a court has entered judgment.
10. **Audit:** Agency agrees to allow periodic visits by Client staff and representatives for the express purpose of performing audits of invoices, client statements or collection activity. All visits will be at a time mutually agreed upon by Client and Agency.
11. **INDEMNIFICATION (AGENCY):** Agency agrees to indemnify, Client, and any employee or agent thereof (each of the foregoing being hereinafter referred to individually as the "Indemnified Party") from and against any all costs, claims, demands, damages, losses and liabilities received or sustained by any person or persons by reason of any act or omission of Agency arising from the performance of its obligations hereunder and/or any breach of the terms of the herein Agreement that are the sole cause of the persons' costs, claims, demands, damages, and losses. Agency's obligation to indemnify shall survive the expiration or termination of this agreement by either party for any reason.
12. **INDEMNIFICATION (CLIENT):** Client agrees to protect, indemnify, defend and hold harmless Agency , and any employee or agent thereof (each of the foregoing being hereinafter referred to individually as the "Indemnified Party") from and against any and all costs, claims, demands, damages, losses and liabilities, (including reasonable attorney's fees and court costs) for or on account of any injury or damages received or sustained by any person or persons by reason of any act or omission by the Client and/or any breach of the terms of the herein Agreement and/or any breach of any statutory duty by Client. The Client agrees to indemnify Agency for Agency's own acts of negligence unless the Agency's acts of negligence are the sole cause of the third party person's or persons' injuries and/or damages. Client's obligation to indemnify shall survive the expiration or termination of this agreement by either party for any reason. Client shall conduct the defense in any such third party action arising as described herein with counsel reasonably acceptable to Agency; Agency shall cooperate with such defense.
13. **APPLICABLE LAW, VENUE:** This Agreement shall be governed by and interpreted in accordance with the laws of Pennsylvania, without giving effect to its conflicts of laws principles. The exclusive venue in any judicial action or proceeding arising out of or relating to this Agreement shall be the Commonwealth of Pennsylvania, Chester County Court of Common Pleas or the United States District Court for the Eastern District of Pennsylvania.
14. **FORCE MAJEURE:** Agency shall not be liable for its inability to perform or for any delay in performing, any of its obligations under this Agreement if that inability or delay is caused by a force majeure event, including but not limited to, equipment failures, governments action, or any other event, like or unlike these events that renders performance impracticable, or for any other cause reasonably beyond Agency's control.
15. **THE AGREEMENT:** The Agreement, constitutes the entire agreement of the parties on the specific subject matter hereof and supersedes all prior representations, understandings and agreements between the parties with respect to such subject matter, and only the signing of the same by both parties shall cause this Agreement to be valid upon the date of the Agreement. Any amendments to this Agreement must be in writing signed by both parties. Should any provision of this Agreement be held invalid or illegal, such illegality shall not invalidate the whole of this Agreement, but rather the Agreement shall be construed as if it did not contain the invalid or illegal part, and the remaining rights and obligations of the Parties shall be valid and binding, and construed and enforced accordingly. To this limited extent, the provisions of this Agreement and parts thereof are declared to be severable.
16. **NOTICES:** All notices or other communications shall be addressed to the parties set forth below:

# Enterprise Recovery, LLC

## Commercial Collection Services Agreement

**To: Enterprise Recovery, LLC**

301 Lacey Street

West Chester, PA 19382

Attention: Jeffrey Heft

**To: CLIENT**

Mailing Address: \_\_\_\_\_

Suite/Building: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Attention: \_\_\_\_\_

**In witness whereof the parties have executed this Agreement on the date listed above.**

**AGENCY: Enterprise Recovery, LLC**

**CLIENT:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_