



## Rutherford's Bailiffs and Collection Services Ltd – Terms and Conditions

### 1. Provision of these Terms and Conditions

These Terms and Conditions are also available to view at our website at [www.rutherfords.co.uk/terms](http://www.rutherfords.co.uk/terms) and on request in writing to the address specified in paragraph 2 a) below.

### 2. Introduction

a) Rutherford's Bailiffs and Collection Services Ltd provide a variety of services to their clients or potential clients ("the Client") including but not limited to: commercial rent recovery and squatter evictions, traveller evictions, vehicle repossessions, process serving, High Court enforcement, debt recovery and tracing, Asset Searches and Credit Control. Rutherford's Bailiffs and Collection Services Ltd are registered at Companies House under No. 10516722 and their registered office is at 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA.

b) These Terms and Conditions set out the basis on which Rutherford's Bailiffs and Collection Services Ltd shall conduct all matters undertaken and shall be read in accordance with any covering letter or warrant. Any differences arising in respect of individual matters shall be notified to the Client in writing.

c) No variation, alteration, substitution or modification of these Terms and Conditions shall be binding on Rutherford's Bailiffs and Collection Services Ltd unless expressly agreed by Rutherford's Bailiffs and Collection Services Ltd in writing.

d) The Client agrees to be bound by these Terms and Conditions upon providing Rutherford's Bailiffs and Collection Services Ltd with an instruction.

### 3. Instructing Rutherford's Bailiffs and Debt Collection Ltd.

a) By completing an Instruction Form and/or instructing Rutherford's Bailiffs and Collection Services Ltd by any other means, a private individual, firm, authorised company representative or legal professional instructing us, Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722 becomes the Client and authorises Rutherford's Bailiffs and Collection Services Ltd to provide the services as set out in the Instruction Form.

b) By becoming the Client, you agree to be bound by these Terms and Conditions.

c) Rutherford's Bailiffs and Collection Services Ltd reserves the right to decline any instructions without stating a reason. In such circumstances any monies paid to Rutherford's Bailiffs and Collection Services Ltd in respect of those instructions may be refunded upon written request and approval by Rutherford's Bailiffs and Collection Services Ltd. Please note this does not include any fees which were made payable to Her Majesty's Court and Tribunal Service (HMCTS).

### 4. Costs, fees and disbursements

a) Our costs The Client will be provided with a quotation in advance, in respect of any instructions received. If there are any changes in the Client's instructions or relevant circumstances at any time, these shall be reflected, as deemed fit, in an amended quotation which shall be provided to the

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Client at the earliest opportunity. In the event that Rutherford's Bailiffs and Collection Services Ltd are unable to provide a quotation, the Client shall be kept informed of the work in progress on a periodic basis, or upon request. Where it is necessary to instruct a third party on the Client's behalf, including but not limited to external investigators, Rutherford's Bailiffs and Collection Services Ltd shall do so as agent for the Client and the Client shall be responsible for payment of the third party fees.

#### **b) Further costs**

In respect of debt collection, judgement/writ enforcement or commercial rent recovery, the following will apply:

- i) In respect of High Court Enforcement Orders where the debt is more than £600 and there is an existing judgement in place in respect of it, there will be a handling fee of £50 plus vat in addition to any costs as outlined above in paragraph a.
- ii) In respect of all other actions other than that mentioned in paragraph i) above, there will be a 20% no collect, no fee arrangement. Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722
- iii) Should Rutherford's Bailiffs and Collection Services Ltd be unable to collect a debt as a result of false, misleading or inaccurate information from the Client (whether intentional or accidental), an administration fee of £150 + VAT will be charged. In addition the full costs of collection, enforcement and / or HCEO fees will be payable.
- iv) Should the Client or Client's agent accept payment from the debtor/tenant contrary to these Terms and Conditions, then the Client will be liable for payment of the administration fee current at the time (currently £150. + VAT) and a commission of 20% of the debt notified on instruction, payable immediately.

#### **c) Other fees and disbursements**

i) In respect of enforcement, the Client, with consent of the Creditor, hereby authorises Rutherford's Bailiffs and Collection Services Ltd to, if necessary, apply to the appropriate Court, so that an enforcement agent may recover from the Debtor exceptional disbursements which are not otherwise recoverable under the Regulations.

v) Rutherford's Bailiffs and Collection Services Ltd and/or the Client/Creditor shall satisfy the Court that the disbursements to which it relates are necessary for effective enforcement of the sum to be recovered, having regard to all the circumstances including the amount of that sum, and the nature and value of the goods which have been taken into control, or which it is sought to take into control.

vi) In matters relating to the recovery of monies, if the Client receives payment on or after the date of instruction, the Client must forward any sums due to Rutherford's Bailiffs and Collection Services Ltd in full, unless expressly agreed otherwise by Rutherford's Bailiffs and Collection Services Ltd.

vii) If the Client or Creditor negotiates payment outside of the enforcement process, either by agreement or consent order, the Client becomes liable to the full fees charged by Rutherford's Bailiffs and Collection Services Ltd that otherwise would have been recoverable from the Debtor under the relevant Regulations.

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viii) In certain activities and services (e.g. evictions) Rutherford's Bailiffs and Collection Services Ltd will invoice the Client directly for the costs associated with providing the service. In such circumstances the Client will make payment of the sums due within the timescales specified on the invoice. If any element of an invoice is queried that part of the invoice which has not been queried is to be paid in any event.

ix) The Client agrees that where enforcement is unsuccessful in matters regulated by the Tribunals Courts and Enforcement Act 2007, the Client will be liable for the Compliance Fee [£75.00 plus VAT as at 6th April Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722 2016], triggered by the Compliance Stage, in accordance with the High Court Enforcement Officers Regulations 2004 No. 400, Part 4, Regulation 13(3A) as amended by The Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provision) Order 2014 No. 600, Paragraph 8.

### **5. Payment**

a) Payment for services is to be made within 14 days of receipt of invoice and interest will be charged on any payment later than 30 days, in accordance with UK legislation and at an equivalent rate of 8% above current base rates, chargeable from time to time on late payments. The Client agrees to pay all fees and charges (and applicable taxes) incurred which relate to the provision and/or use of the services, in accordance with the rates and these Terms and Conditions or any variation thereof as notified to the Client.

b) If paying by credit or debit card, the Client hereby irrevocably authorises Rutherford's Bailiffs and Collection Services Ltd to charge the Client's credit or debit card for damages, additional service time, and/or any charges due and not immediately paid.

c) Unless the Client notifies Rutherford's Bailiffs and Collection Services Ltd in writing of any discrepancies or unauthorised charges within 14 days of the invoice being raised, they will be deemed accepted for all purposes, including resolution of enquiries made by the card issuer. The Client releases the company from all liabilities and claims of loss resulting from any error or discrepancy that is not reported within 14 days of its first appearance on an invoice.

d) The Client shall indemnify Rutherford's Bailiffs and Collection Services Ltd against all costs which it may reasonably incur to recover its invoice sum.

### **6. Payments by Rutherford's Bailiffs and Collection Services Ltd and Agency Payments**

a) Rutherford's Bailiffs and Collection Services Ltd will pay all invoices at the end of each calendar month following the month an invoice is received.

b) Invoices will be paid in full on the basis that the Agent or Agency carrying out the work has acted in accordance with written instructions. Should that not be the case, Rutherford's Bailiffs and Collection Services Ltd reserve the right to pay a reduced fee or no fee at all dependant on the individual circumstances. Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722

c) Any Agent working or carrying out work on behalf of Rutherford's Bailiffs and Collection Services Ltd who collects any sum on behalf of Rutherford's Bailiffs and Collection Services Ltd or their Client, shall pay the full sum immediately to Rutherford's Bailiffs and Collection Services Ltd's nominated Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Company / Registration Number 10516722



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bank account. No sums shall be retained for any purpose, nor shall any amount be used as 'set off' for any expenditure.

### **7. Governing law**

These Terms and Conditions shall be governed by and construed in accordance with the law of England & Wales, and each of the parties submits to the exclusive jurisdiction of the courts of England & Wales.

### **8. Client responsibilities**

- a) By instructing Rutherford's Bailiffs and Collection Services Ltd the Client agrees to provide Rutherford's Bailiffs and Collection Services Ltd with accurate information and documentation.
- b) The Client confirms that no other enforcement action is being carried out that will prevent or hinder Rutherford's Bailiffs and Collection Services Ltd from carrying out their enforcement duties.
- c) The Client confirms that the details given are correct, and accepts any responsibility for information given which proves to be incorrect.

### **9. Termination**

Rutherford's Bailiffs and Collection Services Ltd reserve the right to terminate the provision of services to the Client by providing two weeks written notice delivered to the Client's address. The Client may also terminate instructions to Rutherford's Bailiffs and Collection Services Ltd on any matter at any time, by providing written notification. Notwithstanding any termination by either party, the Client agrees to pay any outstanding fees and costs incurred up to the date of termination or the fixed fee agreed.

### **10. Rutherford's Bailiffs and Collection Services Ltd liability**

- a) In the event of any error, howsoever caused, in any report, notice or printed work of any type, the liability of Rutherford's Bailiffs and Collection Services Ltd shall be limited to the preparation of a new report, notice or printed work. Rutherford's Bailiffs and Collection Services Ltd shall not be liable for any consequential loss, however caused as a result of any such error or any other loss other than to make good the report, notice or printed Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722 work and to redeliver that report, notice or other printed work to any third party who had received the first, at no additional cost.
- b) Upon becoming aware of them, the Client should immediately inform Rutherford's Bailiffs and Collection Services Ltd of any concerns they may know of which would put Rutherford's Bailiffs and Collection Services Ltd and their staff or agents at risk. Any failure to do so will render the Client at risk of full of liability for any resulting loss, damage or injury.
- c) These Terms and Conditions do not affect Rutherford's Bailiffs and Collection Services Ltd's liability to the Client in respect of personal injury or death or other claim arising from the negligence, fraudulent misrepresentation or misrepresentation as to a fundamental matter, made by Rutherford's Bailiffs and Collection Services Ltd or their employees, nor any other liability which cannot be excluded or limited under applicable law. This paragraph shall apply to any claim: a. by the



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Client. b. and, if any duties are held to be owed to them, to a claim by any individual or company, related or associated to the Client, and any officer, servant or, employee of any of these entities; against Rutherford's Bailiffs and Collection Services Ltd, any past, or future Directors, and/or any past, present or future employees of Rutherford's Bailiffs and Collection Services Ltd.

d) All claims, whether made by one or more of the parties, arising from the same act or omission, or from a series of related acts or omissions, shall be regarded as one claim.

e) Any claim arising as a result of these terms must be notified to us in writing within 6 (six) months of the date that such liability arises. Failure to provide notice within this period will forfeit any claim.

#### **11. Exclusions of liability**

a) Rutherford's Bailiffs and Collection Services Ltd will not be liable for any loss of income, loss of profits, loss of markets, loss of reputation, loss of customers, loss of use, loss of an opportunity even if Rutherford's Bailiffs and Collection Services Ltd had knowledge that such damages or loss might arise or for any indirect, incidental, special or consequential damages or loss howsoever arising including without limitation, breach of contract, negligence, wilful act or default.

b) Rutherford's Bailiffs and Collection Services Ltd shall bear no liability for loss and/or damage arising from matters outside its control. Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722

c) Rutherford's Bailiffs and Collection Services Ltd shall not be liable for any debt not recovered for the Client, whatever the circumstances of that non recovery.

#### **12. Advice given**

a) The services provide by Rutherford's Bailiffs and Collection Services Ltd to the Client, which shall include any information or advice given to the Client, is based solely on the information the Client has provided and does not constitute advice to any third party to whom it is communicated.

b) Non solicitors should be aware that Rutherford's Bailiffs and Collection Services Ltd are not a law firm and do not provide legal advice. Any advice provided by the Rutherford's Bailiffs and Collection Services Ltd relates strictly to the provision of services and should not be relied upon as legal advice.

c) Rutherford's Bailiffs and Collection Services Ltd accept no liability for any actions taken or loss or damage incurred as a result of advice given in any communication by Rutherford's Bailiffs and Collection Services Ltd or contained in marketing material. Rutherford's Bailiffs and Collection Services Ltd accept no liability for loss or damage the Client may suffer by instructing any firm of solicitors to whom Rutherford's Bailiffs and Collection Services Ltd refer.

d) None of the content presented on any of Rutherford's Bailiffs and Collection Services Ltd's website constitutes legal advice in relation to any of our services.

#### **13. Professional indemnity insurance**

Rutherford's Bailiffs and Collection Services Ltd do and will at all times carry professional indemnity insurance in respect of the services they provide. Details may be obtained upon request in writing to the registered office as provided in paragraph 2 a) above.



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### **14. Data protection**

a) Rutherford's Bailiffs and Collection Services Ltd use the information provided by the Client primarily for the provision of their services to the Client and for related purposes including: updating and enhancing client records; analysis to help manage company performance; legal and regulatory compliance.

b) Rutherford's Bailiffs and Collection Services Ltd use of that information is subject to the Client's instructions, the Data Protection Act 1998 and Rutherford's Bailiffs and Collection Services Ltd's duty of confidentiality. The Client has a right of access under data protection legislation to the personal data held about them. Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722

c) By instructing Rutherford's Bailiffs and Collection Services Ltd, the Client may be sent information by email that might be of interest. If the Client does not wish to receive that information, they should unsubscribe within the email received or notify Rutherford's Bailiffs and Collection Services Ltd in writing by email to [info@rutherfords.co.uk](mailto:info@rutherfords.co.uk)

### **15. General**

a) These Terms and Conditions shall not affect any provision of the general law or professional standards applicable to the relationship between Rutherford's Bailiffs and Collection Services Ltd and the Client.

### **16. Specific services**

a) Rutherford's Bailiffs and Collection Services Ltd 'transfer up department'

i) Rutherford's Bailiffs and Collection Services Ltd will, in most High Court cases, use solicitors for the purposes of transferring up a judgment and obtaining of a Writ of Control or Writ of Execution. Solicitors are ONLY used for this purpose and all Writs will be enforced by Rutherford's Bailiffs and Collection Services Ltd or any third party instructed by them to do so.

ii) Rutherford's Bailiffs and Collection Services Ltd will take all reasonable steps to ensure any solicitors used have in place proper confidentiality and data protection policies in respect of all and any information disclosed or provided to them.

iii) The cancellation of an instruction for transfer up should be made directly to Rutherford's Bailiffs and Collection Services Ltd in the first instance by contacting them on 07807176364 or by email to [info@rutherfords.co](mailto:info@rutherfords.co)

b) Transfer to the High Court for enforcement.

Rutherford's Bailiffs and Collection Services Ltd, or those properly instructed on their behalf, shall obtain the appropriate certificate from the appropriate Court for transfer of a judgment to the High Court for the purposes of enforcement. Upon receipt of the certificate, Rutherford's Bailiffs and Collection Services Ltd will thereafter obtain the appropriate Writ of control or Writ of execution in the name of an Authorised High Court Enforcement Officer (pursuant to paragraph 2 (1) of Schedule 7 of the Courts Act) and as directed by Rutherford's Bailiffs and Collection Services Ltd. Rutherford's

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Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722 Where Rutherford's Bailiffs and Collection Services Ltd is provided with the appropriate sealed certificate only the latter part of this work will apply. The fee payable to HMCTS to obtain a Writ is a fee of HMCTS and not that of Rutherford's Bailiffs and Collection Services Ltd.

c) High Court enforcement - Writs of control and Writs of execution

Rutherford's Bailiffs and Collection Services Ltd's Authorised High Court Enforcement Officers, Enforcement Agents and Agents shall undertake the enforcement action as directed in the Instruction Form completed by the Client. Rutherford's Bailiffs and Collection Services Ltd may also use a telephone collection strategy in conjunction with enforcement agent attendances to enhance monetary recovery rates.

d) Commercial Rent Arrears Recovery ("CRAR"), Forfeiture of Lease and any other enforcement services under Common Law

Rutherford's Bailiffs and Collection Services Ltd's Enforcement Agents and Agents shall undertake the enforcement action as directed in the Instruction Form as completed by the Client.

e) Payments under a Writ of control

i) Payments collected under a Writ of control will be held "in suspense", i.e. neither belonging to the Creditor or Debtor, for 14 days before payment is made to the Client on the 15th day, as stipulated in the Insolvency Act 1986.

ii) The Client authorises the Enforcement Agent to enter into a payment arrangement under a signed Controlled Goods Agreement where payment in full cannot be obtained.

iii) In matters falling under the TCGA, where the Debtor makes a part payment towards the debt this payment will be split pro rata between the Client and Rutherford's Bailiffs and Collection Services Ltd in payment of the sum to be recovered, and any remaining amounts recoverable in respect of fees and disbursements payable to Rutherford's Bailiffs and Collection Services Ltd, in accordance with The Taking Control of Goods (Fees) Regulations 2014 Paragraph 13(3) & 13(4).

iv) Rutherford's Bailiffs and Collection Services Ltd will hold on the Client's behalf any part payment recovered in an enforcement action until the amount payable to the Client reaches a minimum sum of £100.00, unless expressly agreed otherwise by Rutherford's Bailiffs and Collection Services Ltd.

e) Other services

Rutherford's Bailiffs and Collection Services Ltd, 7-9 The Avenue, Eastbourne, East Sussex, BN21 3YA Registration number 10516722 Rutherford's Bailiffs and Rutherford's Bailiffs and Collection Services Ltd's Authorised High Court Enforcement Officers, Enforcement Agents, Debt Recovery Agents, Field Agents, Repossession Agents, Security Officers and/or any other Contracted Staff or Employees shall undertake the services as directed in the Instruction Form as completed by the Client.

## 17. Complaints

Rutherford's Bailiffs and Collection Services Ltd aims to provide a high quality service to all their clients. In the event of any concern please raise this with your usual contact or case manager. In any other event please contact on [info@rutherfords.co](mailto:info@rutherfords.co)

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### **18. Repeat matters**

Unless expressly varied, these Terms and Conditions will also apply in respect of any future matters where one or more of the services is provided to the Client.

### **19. Amendments to our Terms and Conditions**

a) Rutherford's Bailiffs and Collection Services Ltd may revise these Terms and Conditions at any time. The amended Terms will be effective from the date they are posted on the website at [www.rutherfords.co.uk/terms](http://www.rutherfords.co.uk/terms).

b) The Client, is responsible for checking these Terms and Conditions from time to time to take notice of any binding changes that may have been made. Some of the provisions contained in these Terms and Conditions may also be superseded by provisions or notices published elsewhere on the website and may include Regulatory changes.