

## GENERAL TRADING CONDITIONS FOR DEBT COLLECTION

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### § 1 SUBJECT OF AGREEMENT

The Contractual partner (**Contractual partner**) transfers due claims arising against debtors both nationally and abroad to Coface Debitorenmanagement GmbH (**Coface Debitoren**), for collection subject to a fee.

### § 2 SCOPE OF SERVICES OF COFACE DEBITOREN

Coface Debitoren provides debt collection services as per the collection procedure described below. The Contractual partner selects services under the **Debt Collection Agreement** and in the „Details of collection process; Forms of authorisation“.

2.1. Extrajudicial collection  
Coface Debitoren provides extrajudicial collection services for the collection of claims nationally and abroad which are due but which are not yet legally enforceable, and which are prospectively uncontested.

2.2. Collection through Court  
If extrajudicial collection activities do not culminate in the complete settlement of the claim, then, under provisions negotiated in the Agreement, specialist lawyers (contracted lawyers) will be appointed by Coface Debitoren to collect claims for which it is anticipated that it will be possible to have judgement entered in Court, and – where necessary – to enforce such claims. Prospectively successful foreign claims against corporate debtors can – by consultation with the Contractual partner – be substantiated in Court via locally-based partners.

2.3. Monitoring procedure  
If a claim has not been entirely processed, not even according to the procedure outlined in clause 2.2. above, or if the Contractual partner transfers claims for which judgement has already been entered, then national claims will be incorporated in the monitoring procedure of Coface Debitoren.

2.4. Coface Debitoren implements Collectionorders specifically and expertly, taking account of profitability criteria and at its own due discretion, with professional caution and under the guidelines of the Bundesverband Deutscher Inkasso-Unternehmen e.V. (*BDIU = Federal Association of German Debt Collection Companies*).

### § 3 COLLABORATION; SERVICES OF CONTRACTUAL PARTNER

3.1. The Contractual partner provides Coface Debitoren with the details and information required for the collection of the claim (particularly any part-payments made) and all documents, and should provide any necessary declarations, such as: appointment as attorney, assignment.

3.2. The Contractual partner undertakes not to hand over any claims for collection:

- which are not legally enforceable but which are more than two years old effective from the original due date or which have already expired,
- or
- if insolvency proceedings have been applied for or instituted against the debtor, declined for lack of assets or signed off (schedule of debts requested, § 305 II Insolvency regulations),
- or
- claims in place against deceased debtors or those who have moved to unknown locations in foreign countries,
- or
- those with a residual main claim less than 10.00 €,
- or
- those previously processed by third parties,
- or
- those which are legally unenforceable or unethical.

To the extent that Coface Debitoren is offered any such claims, it may hand them back.

3.3. Once the Contractual partner has issued the collection order, it should have no contact with the debtor.

3.4. Any payments received after the Collection order has been issued should be promptly notified to Coface Debitoren. The same applies in respect of any other circumstances having the effect of a reduction in claim, e.g. returns, credit notes, cancellations, etc.

3.5. Any disadvantages to the Contractual partner or to Coface Debitoren (arising as the result of failure to fulfil the obligations of collaboration) shall be chargeable to the Contractual partner. If Coface Debitoren suffers any loss due to infringement of collaboration obligations, then it may hand the Collection order back as defined in clause 9.2.

#### § 4 PAYMENT BY INSTALMENTS/ NEGOTIATION OF COMPOSITIONS

4.1. In the process of collecting claims which are not yet legally enforceable, nationally and abroad, Coface Debitoren shall be authorised – under the provision in the Debt Collection Agreement (Details of collection procedure; Forms of authorisation) – to negotiate payment by instalments.

4.2. In the monitoring procedure, Coface Debitoren may at its own discretion negotiate payment by instalments, or negotiate compositions, provided that the repayment of at least 50 % of the total claim is envisaged.

4.3. Coface Debitoren may negotiate further agreements by consultation with the Contractual partner.

#### § 5 INCORPORATION OF THIRD PARTIES

Coface Debitoren is entitled to use the services of third parties to provide contractual services, particularly:

- In the case of claims at national level, to take legal action via counsel with debt collection through the Court and – for enforcement – to use the services of the contracted lawyers of Coface Debitoren unless any other procedure is preferred by the Contractual partner. For representation in contested proceedings or in the case of insolvency proceedings regarding claims at national level, the contracted lawyers may appoint sub-attorneys. The agency relationship between the contracted lawyers and Coface Debitoren arises by virtue of the fiduciary assignment of the claim.
- In the case of claims at foreign level, Coface Debitoren may use its locally-based partners.

#### § 6 FEES, MINIMUM TURNOVER, COSTS OF PROCEEDINGS, CHARGING PROCEDURE

6.1. The entitlement of Coface Debitoren for payment of fees from the Contractual partner is laid down in the currently applicable issue of the Debt collection agreement, Collection service and remuneration and these General trading conditions.

6.2. Remuneration for Collection  
Upon issuance of the Collection order for a specific claim, Coface Debitoren charges the Contractual partner for services provided, together with Collection fees and a standard rate for expenses (jointly referred to as: remuneration for collection) as per the Table of collection charges. These are presented to the debtor as the Contractual partner's claim in lieu of delay.

#### 6.3. Expenditures

Expenditures incurred by Coface Debitoren (e. g. Court costs, Court enforcement, investigation and/or detective costs, fees for register information and lawyers' fees as per 6.4.b. and c. and the fees of locally-based partners) must be reimbursed by the Contractual partner if it is not possible to recover them from the debtor. Only in the monitoring procedure are non-incurred expenditures chargeable to Coface Debitoren.

#### 6.4. Reimbursement of lawyers and locally-based partners

- a. For the services of contracted lawyers and any sub-attorneys appointed by Coface Debitoren in the case of national claims pursued extrajudicially, in reminder proceedings at Court or by way of enforcement, they shall charge fees according to RVG (= legal counsel fees regulations) which shall be paid by the Contractual partner.
- b. For the services of contracted lawyers and any sub-attorneys appointed in contested proceedings and in insolvency proceedings, they shall render accounts for fees according to RVG, and the Contractual partner shall settle such fees.
- c. In the case of claims at foreign level, fees will arise on-site according to the national scale applicable for counsel or partners based locally, and shall be presented to (and settled by) the Contractual partner.
- d. Any costs awarded in favour of an opponent shall be payable by the Contractual partner in all cases.

6.5. Reimbursement for collection, expenditures and remuneration of locally-based counsel or partners as per clause 6.4. shall be presented to the debtor as the Contractual partner's claim in lieu of delay or costs of legal prosecution. This shall be implemented to the extent legally possible, in the case of claims at foreign level (6.4.c.). In the first instance, Coface Debitoren defers the rendering of accounts for collection to the Contractual partner, until further notice.

6.6. Commission on results  
Upon full or partial collection of the substantiated claim, Coface Debitoren receives a commission on results to the value agreed in the Debt Collection Agreement for the claims secured as accruing to the Contractual partner. Entitlement for commission arises directly upon every payment or other securing of the claim arising with effect from issuance of the Collection order. "Securing" in this context also means direct payments to the Contractual partner, credit notes on the claim and offset against the debtor's other counter-claims against the Contractual partner.

#### 6.7. Minimum turnover

The Contractual partner guarantees the minimum annual turnover negotiated in the Debt Collection Agreement. The actual turnover will be offset against the agreed minimum turnover.

6.8. If any claim has not been completely secured by the time of closing of the respective collection procedure (clauses 2.1. to 2.3.), then an invoice will be raised for expenditures not reimbursed from the debtor. Moreover, to cover remuneration for collection and counsel fees defined as per clause 6.4.a., the respective collection charge(s) as per the Debt Collection Agreement shall be presented unless a commission on results – amounting at least to the value of the handling charge – has already arisen.

To the extent that the above amount is exceeded by the Contractual partner's claim for compensation outstanding, for remuneration for collection or for the fees of counsel as defined by clause 6.4.a., the Contractual partner hereby assigns it to be secured by Coface Debitoren. Coface Debitoren hereby accepts the forms of assignment arising on such a basis.

6.9. All prices are subject to VAT at the currently applicable rate.

#### § 7 CHARGING PROCEDURE, ACCOUNTING, OFFSET, ADVANCES, EXPIRY

7.1. Any payments or partial payments made by the debtor and received by Coface Debitoren or the contractual partner will be allocated (as payments of the contractual partner) according to section 367 BGB (Germany Civil Code).

7.2. Coface Debitoren shall render accounts at least once monthly for the previous month, for payments and reimbursements received, to the extent that it has been possible to collect owed funds of at least 50.00 €. Otherwise accounts shall be rendered on termination of the Collection procedure.

7.3. Coface Debitoren may offset in-

coming funds against its claims against the Contractual partner on whatsoever appropriate contractual basis. Offset by the Contractual partner against counter-claims shall be excluded unless the counterclaims are uncontested or have been confirmed by the entry of Court judgement.

7.4. Coface Debitoren may charge the Contractual partner a reasonable amount of advance payments.

7.5. For purposes of securing the present and future claims of Coface Debitoren, the Contractual partner hereby and with immediate effect assigns to Coface Debitoren the amount of the claims to be secured. Coface Debitoren may dispose – by way of collection – of the claim assigned as a security, should the Contractual partner fail, despite a reminder, to fulfil its payment obligations as they arise for settlement to Coface Debitoren.

7.6. All claims arising from whatsoever legal grounds against Coface Debitoren shall lapse after two years as from the date of the closing account or of the closing report rendered to the Contractual partner's last known address. This excludes claims arising from wilful negligence.

## § 8 TERMINATION OF COLLECTION PROCEDURE

The Collection procedure shall be deemed terminated upon:

- complete compensation of the total claim or the legally enforceable portion of it or compensation up to the value of any financially justifiable residual claim,

or

- payment of the agreed amount negotiated by composition,

or

- unsuccessful termination of extrajudicial collection procedures if – at the Contractual partner's preference – no claim is presented at Court,

or

- withdrawal/handback of Collection order.

## § 9 WITHDRAWAL OF COLLECTION ORDERS, LUMP SUM COMPENSATION

9.1. The Contractual partner is entitled to withdraw an individual Collection order at any time. In such a case, where prospects for securing the claim have collapsed because of the Contractual partner's

withdrawal, Coface Debitoren may receive not only reimbursement of its costs incurred but also the following standard rate of compensation for:

- Handling of non-enforceable national claim: there shall be a claim for full remuneration under the Debt Collection Agreement as a standard compensation claim.
- Handling of claim at foreign level: standard compensation claim in the form of the entitlement for remuneration under the Debt Collection Agreement and payment for collection.
- Handling of claim in monitoring procedure: the Contractual partner is obliged to bear the costs of expenditures incurred. It is also obliged to pay 10 % of the main claim unless the enforceable claim was already undergoing monitoring by Coface Debitoren at the time of cancellation, or if the reason for the cancellation is the infringement of cardinal obligations on the part of Coface Debitoren.
- The Contractual partner may submit proof that Coface Debitoren has suffered no loss or has only suffered a lesser loss.

9.2. In the existence of an important reason, and in particular if Coface Debitoren or any appointed third party is impeded in the process of the collection by the Contractual partner or by its infringement of collaboration obligations, then Coface Debitoren may hand back Collection orders. In such a case, Coface Debitoren shall hold a claim corresponding to clause 9.1. above.

## § 10 DATA PROTECTION, RELEASE FROM CONFIDENTIALITY OBLIGATION

10.1. The Contractual partner shall assure the permissibility of transferring – to Coface Debitoren – the personal data required for purposes of collection of the claim.

10.2. Coface Debitoren employees responsible for collection of the claim have been bound over in writing to adhere to the provisions of data protection law and to respect telecommunications and banking confidentiality. Coface Debitoren has an appointed data protection Officer.

10.3. If Coface Debitoren should call upon service-providers, the contracted lawyers or locally-based partners for the collection of a claim, then it may pass them the necessary data. Coface Debitoren shall place the third parties under obligation to fulfil data protection regulations.

10.4. The Contractual Partner authorises Coface Debitoren to transfer to credit agencies any negative information relating to the debtor's credit standing, in particular, in compliance with Section 28 a of the German Federal Data Protection Act (BDSG).

10.5. Any data acquired in the context of the Debt Collection Agreement shall be passed on, to the necessary extent, within the Coface for purposes of in-house examination and decision-making as to accepting the Agreement. Moreover, the data shall be employed for investigating the creditworthiness of the Contractual partner's company, the result of which investigation may also be passed on to third parties.

10.6. The contractual partner authorises Coface Debitoren to fulfil its disclosure obligations in relation to Coface for its credit insurance agreements in place with Coface and under the applicable insurance agreement clause.

10.7. In relation to Coface group companies, the Contractual partner releases Coface Debitoren from its confidentiality obligation.

10.8. At the discretion of Coface Debitoren it shall be entitled – following successful or definitively unsuccessful termination of collection measures – to continue to store personal data even after expiry of the statutory storage time limits or to store it in any other form or to delete or destroy the data, records and documents handed to it by the Contractual partner, once the statutory storage periods have expired, unless otherwise indicated by provisions of law.

## § 11 LIABILITY

11.1. Liability for any claim expiry shall be excluded if the claims have not been handed over to Coface Debitoren at least six months before the occurrence of expiry, together with the information & documents which were necessary for the collection process and which enabled monitoring for expiry. Coface Debitoren shall not be obliged to impede the process of expiry regarding subsidiary claims (expenses, interest).

11.2. Coface Debitoren shall not be liable for expiry or loss of claims to the extent that they are not legally enforceable because of the Contractual partner's general or particular preference or because they have not been registered on the insolvency table.

11.3. The Contractual partner's compensation claims arising from whatsoever legal grounds shall be excluded unless – in respect of Coface Debitoren, its legal representatives, employees or agents – they arise from:

a. Culpable liability for a person's death, physical injury or damage to health,

b. Malicious, wilful or gross negligence,

or

c. Culpable infringement of a substantial contractual obligation ("cardinal obligation"); "substantial contractual obligations" for this purpose denote obligations whose infringement will jeopardise the achievement of the purpose of the Agreement or whose fulfilment represents the prerequisite for the correct implementation of the Agreement. Upon moderately negligent infringement of cardinal obligations, the liability of Coface Debitoren shall be restricted to foreseeable losses typical in the context of such Agreements.

Coface Debitoren shall be liable for cases which are impossible from the outset only if the impediment upon fulfilment was known to it or if its lack of knowledge arose from gross negligence – unless the matter relates to a cardinal obligation.

To the extent that the liability of Coface Debitoren is excluded or restricted, this shall also apply to the personal liability of its statutory representatives, employees and agents.

11.4. Compensation claims from debtors or third parties shall be held against the Contractual partner to the extent that they arise from the Contractual partner having failed correctly to fulfil its obligations with particular reference to reporting and the duty of care.

11.5. Liability shall be restricted to 50,000 € per insurance claim, not to exceed a maximum of 200,000 € per year of contract.

## § 12 TERM OF CONTRACT, CANCELLATION

12.1. The Agreement is negotiated for a period of 12 months. It will be tacitly extended by a further 12 months unless cancelled at 2 months' notice to the end of the year of contract by either party to contract.

12.2. This does not affect the right for extraordinary cancellation for an important reason. An important reason shall be held to rise for Coface Debitoren if:

a. The Contractual partner impedes Coface Debitoren, appointed lawyers or the locally-based partner in the process of collection or if it infringes collaboration obligations and provides for no remedy despite the setting up of a period of grace;

or

b. If the Contractual partner's financial circumstances substantially deteriorate, if the institution of insolvency proceedings for its assets should be applied for or if its company is dissolved or liquidated.

12.3. Written form is required as the prerequisite for cancellation.

12.4. Coface Debitoren shall, under the provisions of contract, continue to handle claims already assigned on the date of termination of contract. The parties' contractual obligations shall continue to hold good even after the date of termination of contract. As the alternative, the Contractual partner shall be entitled on the date of termination of contract to require the handback of the Order or to suspend activities in progress in return for settlement of remuneration and payment of the charge for collection as defined in the Debt Collection Agreement B2B, Collection service and remuneration, with particular reference to the extract from the Table of collection charges and the General Trading Conditions, especially expenditures.

## § 13 CONCLUDING PROVISIONS

13.1. Written form shall be required – unless the Agreement expressly envisages some other form – as the prerequisite for amendments and supplements to the constituents of this Debt Collection Agreement. The same shall apply to a change to this written-form clause itself.

13.2. The application of the Contractual partner's General Trading Conditions shall be excluded other than by the written consent of Coface Debitoren.

13.3. Should individual provisions of the Agreement be or become partially or entirely ineffective, null & void or impracticable, then this shall not affect the validity of the Agreement in other respects. The same applies to an instance where the Agreement suffers from a loophole. In such a case the parties to contract agree to put in place – in place of any loophole or in place of any provision that has proved invalid, null & void or impracticable – such a provision as equates as closely as is permissible to the financially intended purpose.

13.4. Mainz shall be the place of fulfilment for all liabilities arising under the contractual relationship. German law shall apply to any disputes arising from or in connection with this Agreement. Mainz shall be the place of jurisdiction to the extent legally permissible.

13.5. Upon entry into force of these General Trading Conditions for Debt Collection, all previous Conditions shall lose their validity.

13.6. Upon entry into force of new General Trading Conditions and/or any changes to the pricing models laid down in the Debt Collection Agreement, Coface Debitoren shall send the new conditions to the Contractual partner, in writing. The Contractual partner shall then be entitled in writing to contest the validity of the new General Trading Conditions and the new pricing models, within four weeks as defined by the postmark date. Upon indication of new Conditions, Coface Debitoren must include a mention of the option for contestation. Should Coface Debitoren not receive any written contestation from the Contractual partner within the said 4-week timeframe, then the new trading conditions together with the corresponding pricing models shall be deemed negotiated.

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