

# Terms of Business for Burlington Credit Limited

## Standard Terms and Conditions - Master

### 1. Definitions

In these Terms the following words have the following meanings:

- 1.1 **Standard Terms and Conditions** - these terms and conditions for Burlington Credit Limited for the provision of varied services in accordance with these terms and conditions.
- 1.2 **Services** - the services to be provided to the Client (see below) by Burlington Credit Limited will be subject to a set of 'Service Area' (see below) specific Terms and Conditions that will be made available separately to the Client and they will be in addition to these Terms and Conditions which will apply universally to all Clients.
- 1.3 **Service Areas** - these include, but are not limited to; High Court Enforcement, Debt Recovery, Vehicle Recovery and General Legal Services.
- 1.4 **The Client(s)** - means the person, company, business, group or organisation to whom Burlington Credit Limited provides Services.
- 1.5 **Main Contact Point** - this is the principal contact person and/or department within the Client's organisation that is authorised to give Burlington Credit Limited instructions.
- 1.6 **Service Conditions** - Burlington Credit Limited provide a variety of Services. In addition to these Terms and Conditions all Service Areas will have a set of specific Service Conditions that are set out in a Service Level Agreement. The 'Service Conditions' along with the Terms and Conditions set out below are inclusive to any engagement letters, client care letter, service level agreement and / or other documentation supplied setting out details of the Services provided or to be provided by Burlington Credit Limited.
- 1.7 **Payment** - the payment terms for costs, fees and expenses either set out below or more specifically in the Service Conditions.
- 1.8 **Liability** - any and all liability arising out of, in connection with or in-relation to any service(s) and/or the supply and/or non-supply of the service(s) or otherwise under these Terms and Conditions, whether in contract, tort, negligence and/or otherwise.
- 1.9 **References** - to we, us, our etc. means Burlington Credit Limited.

In these Terms except where the context otherwise requires:

- 1.10 references in these Terms and Conditions to "clauses" are to clauses in these Terms; and
- 1.11 words importing the singular include the plural and vice versa and words importing one gender include all other genders; and
- 1.12 the clause headings in these Terms are for convenience only and will not affect the interpretation of these Terms and Conditions or any part of them.

### 2. Services

These Terms and Conditions will apply to all Services provided by Burlington Credit Limited to the Client in all Service Areas, except as expressly varied by the Service Conditions or as otherwise agreed in writing by Burlington Credit Limited and the Client.

- 2.1 The Service/s provided in the specific Service Areas by Burlington Credit Limited will be as set out in the Service Conditions or as otherwise agreed or confirmed in writing between Burlington Credit Limited and the Client.
- 2.2 In the event of any conflict or inconsistency between these Terms and Conditions, the provisions of the Service Conditions will prevail.
- 2.3 Unless Burlington Credit Limited agrees otherwise we will provide our Services on normal working days and start work at 7.00am and finish work at 9.00pm. A normal working day for us means Mondays to Fridays, excluding weekends, any Bank Holidays or other national holidays.
- 2.4 The performance of some of Services may take place away from Burlington Credit Limited's administrative offices. For example, Burlington Credit Limited may carry out some of the activities in performing the Client's instructions other than at the administrative offices.

### **3. Obligations upon Burlington Credit Limited**

- 3.1 Burlington Credit Limited will provide the Services in accordance with the reasonable instructions of the Client.
- 3.2 Burlington Credit Limited will endeavour to provide the Services with reasonable skill and care and substantially in accordance with any performance criteria set out in the Service Conditions.
- 3.3 In providing Services, Burlington Credit Limited will take account and comply with all reasonable directions provided by the Client, either directly, through their agent and/or employee. Services will always be limited to the remit of the relevant statute and regulations and should the Client's instructions in any way conflict with the regulatory remit the regulatory requirement will prevail.

### **4. The Client's Obligation(s)**

- 4.1 Throughout the period of Services the Client will:
  - 4.1.1 appoint a principal contact person and/or department ("the Main Contact Point") who/that is authorised to give Burlington Credit Limited instructions on the Client's behalf and to whom Burlington Credit Limited can report;
  - 4.1.2 inform Burlington Credit Limited promptly in writing if the Client's Main Contact Point becomes altered at any time;
  - 4.1.3 provide Burlington Credit Limited with any information and/or documents that are reasonably requested and in a timely manner;
  - 4.1.4 promptly make any payment(s) reasonably requested in respect of costs, fees, disbursements and/or expenses incurred (or those which will be incurred) by Burlington Credit Limited;
  - 4.1.5 use all reasonable endeavours to ensure that the information and/or documents that the Client supplies to Burlington Credit Limited are accurate and up-to-date;
  - 4.1.6 ensure that Burlington Credit Limited is provided with up-to-date contact details for the Client at all times (to include email and postal addresses, telephone numbers and fax numbers).
- 4.2 The Client will NOT expect Burlington Credit Limited to fulfil their Services and obligations under these Terms and Conditions if Burlington Credit Limited is prevented from doing so by any acts or omissions by the Client, the Client's agent and/or the Client's employee/s.

### **5. Payment**

- 5.1 The Client will pay Burlington Credit Limited for the Services in accordance with the Terms herein set out in this Clause 5 and Clause 4.1.4 above and where applicable the Service Conditions. All payments will be subject to VAT unless specifically otherwise stipulated by Burlington Credit Limited.
- 5.2 Where the fees are to be charged (in whole or in part) on an hourly or time-spent basis, the fee will be calculated by multiplying the time taken (recorded in units of 5 minutes, with rounding up of part-units) by the hourly charging rate.
- 5.3 Subject to clauses 5.5 below, the Client will make all payments within 14 days of the invoice date, by cheque or bank transfer to our bank account, details of which are available on request, if not already provided on the invoice. Acceptance by Burlington Credit Limited of any payment(s) after the 14 days does not constitute any covenant to a change to the meaning of this Clause.
- 5.4 Where the Client legitimately disputes any invoice the Client shall be entitled to withhold payment of the disputed amount only, pending resolution of the dispute, but shall pay the undisputed amount in accordance with these Terms and Conditions. Where any undisputed sum remains outstanding 60 days or more after the relevant invoice date then (without limitation to any other remedy) Burlington Credit Limited will settle that outstanding sum directly from any funds held on account by Burlington Credit Limited or from funds received by Burlington Credit Limited on the Client's behalf. Where such funds are not held on account, by Burlington Credit Limited will commence such action, proceedings and/or complaint as necessary for the recovery of the outstanding sum.
- 5.5 The Client will reimburse Burlington Credit Limited for any bank or other transaction charges incurred by Burlington Credit Limited in relation to money received, held or transmitted on the Client's behalf, including without limitation any credit/debit card charges, direct debit charges, standing order charges, online payment charges, charges for the electronic transmission of funds, charges for the payment in of funds or any other transaction charges whatever.
- 5.6 Items that constitute expenses, disbursements and/or costs (including court fees) may be subject to variations beyond Burlington Credit Limited's control. In the event of any variation, the amount payable by the Client will be the amount actually incurred (or those which will be incurred) by Burlington Credit Limited whether we inform the Client of such

variation in advance or not. Without Prejudice to the foregoing, Burlington Credit Limited will use reasonable endeavours to inform the Client of any significant variations.

5.7 Where Burlington Credit Limited has provided Services to the Client that require us to make payment(s) to the Client, payment will be made in accordance with the remit set out in statute and/or regulations. If there is no statutory remit governing payment, cleared funds will normally be paid over 15 days after receipt of any cleared funds, unless otherwise agreed or stipulated by Burlington Credit Limited.

5.8 All amounts stated and quoted (whether orally or in writing) are exclusive of VAT, which will be added at the rate currently in force.

## **6. Confidentiality & Data Protection**

6.1 Burlington Credit Limited will endeavour to ensure that any information about the Client, the Client's business and the Client's employees given to Burlington Credit Limited and/or stored on the company's computer system(s) will be treated as confidential, kept secure and will not be disclosed to anyone outside the company, except for our professional IT agents, legal advisors and/or insurance representatives or as may be required by law or any legal or regulatory authority without the Client's prior knowledge and/or, where necessary, agreement.

6.2 Burlington Credit Limited and the Client will comply with all provisions of the Data Protection Act 1998.

6.3 In relation to information:

6.3.1 Burlington Credit Limited and the Client agree to use information only as instructed and/or agreed; and

6.3.2 Burlington Credit Limited and the Client confirm they have in place appropriate technical and organisational security measures against unauthorised and unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

6.4 From time-to-time Burlington Credit Limited may wish to send the Client information about relevant new services or other business developments that are believed will be of interest and/or relevance to the Client, this information is to be treated as confidential by the Client unless otherwise advised by Burlington Credit Limited. The Client agrees that Burlington Credit Limited may send this information, unless the Client tells Burlington Credit Limited otherwise in writing.

6.5 If Burlington Credit Limited are compelled to disclose documents or provide information relating to the Client either orally or in writing as the result of a court order, notice or demand served by a person who has the authority to compel such disclosure by law, then we will comply.

## **7. Non-Solicitation**

7.1 The Client shall not (except with prior written consent) solicit the services of any of Burlington Credit Limited's employees, appointed representatives, certificated enforcement agents, contractors or other agents who are engaged in the provision of Services for the Client while that employee, appointed representative, certificated enforcement agent, contractor or other agent is so engaged in the provision of Services to the Client or for a period of six months after the time that that employee, appointed representative, certificated enforcement agent, contractor or other agent ceases to be engaged whether as principal, agent, employee, independent contractor or any other form of employment or engagement, other than by means of a national advertising campaign open to all-comers and not specifically targeted at any of our employees, appointed representatives, certificated enforcement agents, contractors or other agents.

## **8. Copyright**

8.1 Burlington Credit Limited will retain copyright of any document that is created by us and this copyright will not be transferred to the Client under any circumstances. Burlington Credit Limited retains the right to be identified as the author of any documents created by us and to object to any misuse of the document.

## **9. Termination**

9.1 Burlington Credit Limited may terminate the trading relationship with the Client if:

9.1.1 the Client does not sign the Service Conditions document after Burlington Credit Limited gives the Client 7 days notice.

9.1.2 the Client does not pay any part of the costs, disbursements, expenses and/or fees by the date specified in the invoice(s) and in accordance with Clause 5 above.

9.2 Either Burlington Credit Limited or the Client may terminate the trading relationship by giving written notice to the other party as specified in the Clause 10 below if:

- 9.2.1 one party is in breach of its obligations; or
- 9.2.2 one party becomes insolvent or if an order is made or a resolution is passed for the winding up of a party (other than voluntarily for the purpose of solvent amalgamation or re-construction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the party's assets or business, or if the party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

## **10. Notices**

- 10.1 Subject to any express provisions of these Terms and Conditions to the contrary, any notice or other communication/s (including termination of services and withdrawal of instructions) given by either Burlington Credit Limited or the Client will be in writing and signed by or on behalf of the party giving it and will be served by:
  - 10.1.1 delivering the notice personally; or
  - 10.1.2 sending the notice by first class recorded post; or
  - 10.1.3 sending the notice by email to the e-mail address for that party identified in writing from time-to-time as the relevant address respectively.
- 10.2 Any such notice will be deemed as received:
  - 10.2.1 if delivered personally in Business Hours, at the time of delivery;
  - 10.2.2 if delivered personally outside Business Hours, at 9am on the next Business Day ;
  - 10.2.3 in the case of first class recorded post, at 9 am on the second Business Day after the date of posting;
  - 10.2.4 in the case of email, at 9am on the next Business Day after it is sent or (if sooner) upon acknowledgement of receipt by the recipient.
- 10.3 For the purpose of this Clause, "Business Day" means any day which is not a Saturday, a Sunday or a public holiday in the place at or to which the notice is left or sent, and "Business Hours" means between 9 am and 5 pm on a Business Day.

## **11. Warranties, Liabilities and Indemnities**

- 11.1 Burlington Credit Limited warrants that we will use reasonable care and skill in performing the Services to a standard which conforms to generally accepted industry standards and practices.
- 11.2 Burlington Credit Limited expressly does not warrant that any result or objective whether stated in these Terms and Conditions or not, shall be achieved, be achievable or be attained at all or by a given date or any other date.
- 11.3 Except in the case of death or personal injury caused by Burlington Credit Limited's negligence, Burlington Credit Limited's liability under or in connection with these Terms and Conditions whether arising in contract, tort, negligence, breach of statutory duty or otherwise howsoever, shall not exceed the costs, expenses and fees paid to Burlington Credit Limited under these Terms and Conditions and/or the Service Conditions.
- 11.4 Nothing in the Agreement will limit Burlington Credit Limited's liability or that of any other person or business for personal injury or death caused by negligence or fraudulent misrepresentation.
- 11.5 Subject to Clause 11.3 neither Burlington Credit Limited nor the Client shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.
- 11.6 Subject to clause 11.3, Burlington Credit Limited will have no liability to the Client for any loss or damage arising from any information or instructions supplied by the Client which is incomplete, incorrect, inaccurate, illegible, out of sequence or wrong in any way, or arising from late arrival or non-arrival, or any other fault of the Client.
- 11.7 Subject to clause 11.3, in Service Areas where it is relevant, Burlington Credit Limited's liability to the Client for loss or damage to the Client's tangible property or to goods seized and held by Burlington Credit Limited on the Client's behalf caused by the gross negligence of our employees and/or agents shall be limited to a maximum amount per event or series of connected events to:
  - 11.7.1 if insurance has been obtained to the amount of cover under such insurance per event or series of connected events; or
  - 11.7.2 otherwise, one hundred thousand pounds Sterling (£100,000).

## **12. Amendments to Terms and Conditions**

12.1 Burlington Credit Limited will at all times retain the right to amend its terms and conditions where:

12.1.1 we need to do so in order to comply with changes in the law or for regulatory reasons; or

12.1.2 we are changing the rates we charge for the provision of Services; or

12.1.3 we need to correct any errors or omissions (and this right includes the right to change any of the documentation which forms part of the trading relationship between Burlington Credit Limited and the client), as long as such correction is minor and does not materially affect the position of the parties.

12.1.4 Where we are making any amendment we will give the Client **30 days'** prior notice

## **13. Force Majeure**

13.1 If Burlington Credit Limited are prevented from performing any Service and/or obligation(s) under these Terms and Conditions as a result of any acts, events, omissions or accidents beyond the reasonable control of Burlington Credit Limited including without limitation strikes, lock-outs or other industrial disputes, whether involving the workforce or otherwise and/or due to an act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm, Burlington Credit Limited obligations will be suspended for the duration that those circumstances continue to prevent Burlington Credit Limited from performing their Services and/or obligations.

## **14. Assignment**

14.1 Neither the Client nor Burlington Credit Limited will be entitled to assign the benefit of these Terms and Conditions in whole or part without the prior written consent of the other, which will not be unreasonably withheld or delayed.

## **15. Severance**

15.1 If any Clause of these Terms and Conditions and/or the Service Conditions is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms and Conditions and all unaffected Clauses shall remain in full force and effect.

15.2 If any Clause of these Terms and Conditions and/or the Service Conditions is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such deletion(s) as may be necessary to make it valid and enforceable.

## **16. Third Party Rights**

16.1 Pursuant to Contracts (Rights of Third Parties) Act 1999 these Terms and Conditions are not intended to, and do not, give any person who is not a party to it any right to enforce any of its provisions.

## **17. Jurisdiction**

17.1 These Terms and Conditions will be governed by the laws of England and Burlington Credit Limited and the Client will submit to the exclusive jurisdiction of the courts of England.