

# EH TradeLock Collection Services Agreement

## A. Scope of this Agreement

We, Euler Hermes Collections UK, the Collection Service Provider, agree to provide you with the services described in this Agreement (“the Collection Services”) in exchange for the payment of all fees and costs due to us on the terms recorded in this Agreement.

The Collection Services are provided in conjunction with the **Policy**.

This Agreement does not vary, alter, waive or extend any of the terms and conditions of the **Policy** except as expressly stated in this Agreement.

The words and phrases in italics defined in section E have the same meaning wherever used in the Agreement.

### 1. Debts in the scope of this Agreement

- a. Your debts may only be included in the scope of this Agreement if they relate to legal entities whether or not they were actually covered by the **Policy** at the time of non-payment.
- b. Debts may not be included in the scope of this Agreement if, within 6 months of them being placed with us for collection, it is not possible to start legal proceedings due to the expiry of the limitation period arising from the applicable law or terms of sale.
- c. We will not carry out any activity relating to your civil or criminal liability, customs obligations, export licenses or tax matters.

## 2. Collection Services

### 2.1 Collection Mandate

- a. At our discretion we will use the most appropriate methods of providing the Collection Services including using our Euler Hermes Group affiliates or other third parties.
- b. When you give us a mandate to collect the relevant debts you authorise us to enforce all rights relating to them (“the Collection Mandate”) and in particular to:
  - conduct all negotiations with the **Debtor**,
  - agree any settlement with the **Debtor** for the collection of the debts (on prior agreement from you where appropriate),
  - attempt to recover from the **Debtor** any relevant collection fees and costs due to us and any interest due to you from the **Debtor**,
  - endorse, accept, and deposit in our general collection account, payments from **Debtors** or third parties made in settlement of the relevant debts, and
  - deduct any collection fees and costs due to us from amounts collected on your behalf.
- c. Upon your approval we may instruct any solicitor or third party to:
  - pursue on your or your credit insurer’s behalf any collection or legal action,
  - disburse to us any **Recoveries**, and
  - forward to us any relevant document.
- d. The Collection Mandate in our favour must be signed by a duly authorised person and you must renew it at any time if requested by us or our Euler Hermes Group affiliates. When filing the Collection Mandate online, you warrant to us that it is provided to us by a duly authorised person. We will not be responsible for any litigation regarding validity of the mandate.
- e. We may terminate the Collection Mandate in writing if you do not:
  - provide us without undue delay with all information and documents that we may request to enable collection of the unpaid debts,
  - take all steps we may request to enable collection of the unpaid debts (including starting and pursuing legal proceedings), or
  - pay any collection fees and costs when they become due.

- f. We may also terminate the Collection Mandate in writing if the collection action has proved (or is likely to prove) ineffective. This may apply in particular when your **Debtor** cannot be found, or your **Debtor** is clearly unable to pay, or legal proceedings are not economical or cost-effective, for example if the costs of any collection action would be disproportionate compared to the amount of the potential **Recoveries**.

## 2.2 Recoveries

You will repay us, within 30 days of our written request, any **Recovery** collected by us and forwarded to you if it is later dishonoured or rejected by the issuer for whatever reason (including but not limited to any fraud or error).

We alone may set off any collection fees, costs and **Recovery** payments due to us or any other Euler Hermes Group affiliate (whether or not these amounts relate to the same Collection Mandate) against any **Recovery** or other amount due to you from us under this Agreement.

## B. Obligations under this Agreement

### 3. Our obligations

We will perform the Collection Services in line with all applicable laws and industry standards, and will treat all confidential information you have provided in complete confidence.

We may only share information and documents relating to the Collection Services with third parties appointed and / or instructed by us to provide the Collection Services and our Euler Hermes Group affiliates.

We will forward to you your share of any **Recoveries** (net of bank receipt and transfer charges) within 30 days of receiving them.

After you have been indemnified under your **Policy** for debts owed by a **Debtor**, we will continue to provide Collection Services under the applicable Collection Mandate.

### 4. Your obligations

You must, without undue delay, provide us with all documents and information necessary to perform the Collection Services, including correspondence relating to the debts, and details of any relevant event after submission of your Collection Mandate (such as the return of goods **Supplied** or a payment or other settlement arrangement that reduces or satisfies the debt).

After you have given us the Collection Mandate, you must not carry out any independent negotiations with the **Debtor** or any other collection activities without prior written agreement from us or any Euler Hermes Group affiliate. Failure to obtain such agreement will entitle us to charge our collections fees on any **Recoveries** made as a result of such negotiations or collection activities.

### 5. Fees and costs

You must pay us in full all fees and costs due from you under this Agreement within 14 days from the date of our invoice.

#### 5.1 Collection fees

We will charge you collection fees as detailed below. We reserve the right to vary such fees by giving you notice in writing.

We will attempt to recover the fees payable by you from the **Debtor** where permitted by the applicable law. Your obligation to pay these fees (or a proportion of them) will be waived upon payment of these fees by your **Debtor**.

If a debt is settled directly with you by your **Debtor** or any third party after you have given us the Collection Mandate, you must immediately disclose details of such receipts to us and pay us all relevant fees and costs.

#### 5.2 Costs

You must refund or pay legal and other costs incurred in performing the Collection Services as defined in the Collection Services Fee Schedule.

This obligation applies whether or not collection attempts have been successful.

## C. Agreement duration

### 6. Agreement duration and termination

- a. The start date of this Agreement is the start date of the **Policy**.
- b. This Agreement will automatically terminate on termination of your **Policy**.
- c. Following termination of this Agreement, we will continue providing the Collection Services for Collection Mandates relating to debts which may be covered under the **Policy**. Any other debts will not be subject to this Agreement and you will need to enter into a separate agreement with us for the provision of the debt collection and recovery services in respect of such uninsured debts.
- d. You are responsible for paying all collection fees and costs due to us including where the Collection Services were provided after the termination of this Agreement.

## D. General conditions

### 7. Waiver

We do not waive any material breach by you of any term or condition of the Agreement unless we have specifically agreed to do so in writing.

### 8. Applicable taxes, duties and other charges

You alone will be responsible for paying all current and future taxes, duties and bank receipt and transfer charges arising under or in connection with the Agreement.

### 9. Language, applicable law and jurisdiction

#### 9.1. Language

If this Agreement has been provided to you in different languages, the binding version will be English.

#### 9.2. Applicable law and jurisdiction

This Agreement will be interpreted and governed in all respects by English law.

We intend to resolve any dispute or difference between you and us amicably. In the event of our failure to do so, disputes will be submitted to the exclusive jurisdiction of the English Courts.

### 10. Indemnity

You will indemnify us or any Euler Hermes Group affiliate in full or, hold us or any Euler Hermes Group affiliate harmless, against all claims, losses, costs and expenses (including third party costs) incurred as a result of any award or judgement made against you or us (acting on your behalf) in any legal action or court process commenced in connection with the Collection Services, including arising from the invalidity of the Collection Mandate.

### 11. Liability

In so far as permitted by law, our liability under or in connection with this Agreement will be restricted to losses arising directly from wilful acts or gross negligence by us or anyone acting on our behalf. It will in all cases be limited to the amount of the collection fees paid by you to us under this Agreement in relation to the cover under the **Policy** in respect of which such liability arose.

### 12. Severance

- a. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

- b. If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## E. Definitions

**“Cover Endorsement”** means the part of the **Policy** named the **Cover Endorsement** which sets out the details of your invoices covered for a **Debtor**.

**“Debtor”** means a legal entity to which you have **Supplied** goods or services, who has failed to pay the invoiced amounts on the due date under the applicable terms of sale.

**“Policy”** means your Credit Insurance agreement with Euler Hermes UK, including the General Terms and Conditions, the **Cover Endorsement**, and any amendment or endorsement issued under or in connection with the **Policy**.

**“Recovery / Recoveries”** means any:

- a. money received from the **Debtor** or any third party on behalf of the **Debtor**, including dividends received out of the **Debtor’s** insolvent estate,
- b. indemnities, guarantees or other security obtained and realised,
- c. goods recovered and sold,
- d. counter claims or set-off applied or available, and/or
- e. other advantages or rights of actions available against the **Debtor** or any third party.

**“Supplied”** means:

- a. the goods have been passed to the first independent carrier for transport to the place where the **Debtor** is obliged to accept them,
- b. if there is no independent carrier, the goods have been deposited into the possession of the **Debtor** or a third party agent who agrees to hold the goods to the order of the **Debtor**, or
- c. the services have been completed as contracted.

## F. Collection Services Fee Schedule

Please note that collection fees and costs may be indemnified in accordance with the terms and conditions of your **Policy**.

### 1. Commission Fee

We will charge you a commission fee in respect of any and all pre-legal/legal stage **Recoveries** made on a debt from the date of receipt by us of your Collection Mandate and only where the **Recovery** is made before you have been indemnified under your **Policy**. The fee will be chargeable at the date of **Recovery**.

Please see Tables 1 and 2 below for your commission fees.

### 2. Legal Action Fee

In the event that before you have been indemnified under your **Policy** we instruct a solicitor to recover any debts within the United Kingdom, we will charge you a Legal Action Fee which covers the services provided by the solicitor. Services covered include pre-issue case review, sending a solicitor’s letter before action, issuing a county court claim, applying for judgment, responding to any defence filed, and enforcement action by way of a warrant or writ. The Fee does not cover the court fees paid on your behalf or the costs of defending a counterclaim or issuing insolvency proceedings or providing those other legal services specified as “Excluded Activities” as defined below. The Legal Action Fee is not available for debts below £1,000.

“Excluded Activities” means services provided by a solicitor in respect of a debt which is disputed by the Debtor, or where the Debtor is insolvent, and includes (without limitation) any form of contested court proceedings, arbitration, alternative dispute resolution (including mediation and adjudication), counterclaim or any action unconnected with the Collection Mandate, or any matter connected with construction and/or engineering.

Please see Table 1 below for your Legal Action Fee.

### 3. Other Fees

We will charge you any tracing or enquiry agents' fees incurred by us in relation to debts within the United Kingdom, where we do not agree to these third party costs being incurred.

Please see Table 1 below for your Other Fees.

### 4. Legal Costs

In the event that we instruct a solicitor to recover any debts outside the United Kingdom, we will charge you the applicable Legal Costs if they are invoiced before you have been indemnified under your **Policy**. Legal Costs shall mean the solicitor's costs (including any commission charged by the solicitor), court fees, disbursements and similar costs of all litigation, including defended cases, up to trial requested by us, and where applicable, third party costs but excluding tracing or enquiry agents' fees or the costs arising from Excluded Activities as defined above.

### Collection fees (excluding VAT which will be payable in addition where applicable)

Table 1

Debts within the United Kingdom:	
Commission fee payable on the <i>Recovery</i>	5% subject to a minimum fee of £25
Legal Action Fee (applicable on the date of placement for legal action)	£580
Where we recommend a trace or enquiry	No charge
Trace	£65 per positive report
Enquiry	£90 per report

Table 2

Debts outside the United Kingdom:				
Commission fee payable on any <i>Recovery</i>				
Band A – 15%	Andorra	France	Lichtenstein	San Marino
	Austria	Germany	Luxembourg	Spain
Band B – 20%	Belgium	Gibraltar	Malta	Sweden
	Canada	Greece	Monaco	Switzerland
	Channel Islands	Hungary	Netherlands	USA
	Czech Republic	Iceland	Norway	
	Denmark	Ireland	Portugal	
	Finland	Italy	Puerto Rico	
	Rest of the World			