



how to get paid ...

fast

Debtor Management for
Small to Medium
New Zealand Businesses



Terms & Conditions of Trade Supply

Charges under the Personal Property Securities Act

Personal Guarantees and other collateral securities

Identifying Problem Debtors

Collection and Enforcement Procedures

WHY DO YOU NEED A DEBTOR MANAGEMENT SYSTEM?

Whilst New Zealand has enjoyed a sustained period of growth over the last six years, many New Zealand businesses are now encountering more challenging trading conditions. This is often reflected in the length of time debtors are taking to pay their accounts and in some cases firms are being forced to take steps to recover monies due to them by using more formal methods.

Debtor management is an extremely important part of any business enterprise in that the slow paying of accounts will almost invariably put stresses on the working capital ratios of businesses. This may lead to the need for further capital injections by the proprietors or the taking on of increased debt.

To assist businesses in this area, Turner Hopkins Recoveries Limited has summarised below the principles of Debtor Management which, if implemented in a manner which compliments the area of business a firm is operating in, may greatly assist in the efficient recovery of monies due in respect of goods and services supplied.

THE IMPORTANCE OF YOUR TERMS AND CONDITIONS OF SUPPLY

Once a customer has been identified, and a decision has been made to supply goods and/or services to this customer, the relationship should be carefully documented in a binding agreement which defines the terms and conditions of supply.

The Agreement should include the following information:-

- Identify the parties to the arrangement
- The terms of payment and delivery
- What constitutes a default
- The remedies available to the supplier upon default e.g. charges over the goods under the Personal Property Securities Act (PPSA)
- Collateral securities e.g. guarantees from third parties, mortgages and charges over property
- Right to charge interest

- Right to list the customer as a default on various credit agencies
- Service arrangements
- Credit references

Once the terms and conditions are agreed upon, they should be incorporated into a carefully drafted agreement, validly signed by all parties to the arrangement, and the time limits for registration of the securities (including those granted under the PPSA) immediately complied with.

Turner Hopkins Recoveries Limited is able to assist you in the preparation of comprehensive Terms and Conditions of Supply tailored to your area of trade.

WHEN SHOULD A DEBTOR BE CLASSIFIED AS IN DEFAULT?

One of the most difficult decisions the proprietors of a business must address is identifying when it is appropriate to invoke the default provisions contained in the Terms and Conditions of Supply. To assist in this decision making process, we believe it is imperative for an efficient debtor system to be incorporated within the management processes of a business. This system must:-

- Contain current information as to the customer's identity, address and service details
- Show the current amount owed
- Show the debt history e.g. current, 30, 60 or 90 days overdue.

Slow payers should be identified as early as possible in order to ascertain the reason for the delay e.g.:

- Problems with delivery times
- Quality or description of goods
- Issues with the debtor being paid;
- Fundamental issues with the debtor's financial reliability

This will enable the appropriate follow-up action to be identified and initiated. Experience has demonstrated that an efficient debtor system assists greatly in identifying both when it is appropriate to implement enforcement action and

if the relationship between the business and its customer has broken down to the extent where recovery of monies due is in priority to preserving the relationship.

SECURITY FOR DEBTS – THE MAIN OPTIONS

REGISTRATION OF CHARGES UNDER THE PERSONAL PROPERTIES SECURITY ACT

This Act replaced the prior Acts dealing with the granting of securities over plant, equipment, chattels and the like contained in the Chattels Transfer Act 1924, Motor Vehicles Securities Act 1989 and provisions of the Companies Act 1993. Suppliers are now able to take a charge over either specific assets such as the stock supplied, or a general charge over all assets owned by a customer. There are strict requirements relating to the form of the security agreement used to create the charge, however these requirements can be inserted in the general provisions of the Terms and Conditions of Supply. A charge registered under the PPSA should provide the supplier with priority over general creditors of the customer and in the case of charges over specific assets, should provide priority over banks and other financial institutions that hold a general security agreement.

GUARANTEES

Limited liability companies often do not have significant net assets and therefore guarantees by associated parties of greater net worth offer greater security to the supplier. Potential guarantors include directors, shareholders and associated companies or family trusts. The law relating to guarantees is complex and it is vital a comprehensive and binding guarantee is included in the Terms and Conditions of Supply with the guarantee signed correctly and any disclosure requirements complied with.

COLLATERAL SECURITIES

The Terms and Conditions of Supply may address the provision of collateral securities to support the customer's obligations to the supplier. This could include a mortgage over the premises from which the business operates if it is owned by the business or an associated entity, or a charge over other assets.

COLLECTION AND ENFORCEMENT PROCEDURES

Once the decision has been made to take action to enforce payment of any amount due the appropriate action must be agreed upon. Turner Hopkins Recoveries Limited has developed established, proven and effective processes for the enforcement and collection of debts. We have a dedicated team of specialists able to efficiently and cost effectively collect debts of any value or volume.

COMPANIES

Where the debtor is a company it is often possible to commence liquidation proceedings by issuing a statutory demand. This relatively inexpensive and "fast track" approach will force the debtor company to address the issue as a matter of urgency. In many cases merely instigating this procedure will lead to a satisfactory resolution.

INDIVIDUALS

When a debtor (or guarantor) is an individual, Court proceedings may often be appropriate. Turner Hopkins is able to commence District Court proceedings at a nominal cost and with a view to obtaining Judgment within the shortest possible time. If the debtor owns property (i.e. a house or investment property) any Judgment can be charged over that property by way of a charging order. In addition once Judgment has been obtained enforcement action can be taken by way of seeking an attachment over the debtor's income or, if appropriate, by commencing bankruptcy proceedings. In many cases the costs that are recoverable from the debtor will exceed those that have been incurred by commencing these proceedings.

Our Unique Approach

At Turner Hopkins we are always anxious to ensure that our clients do not "spend good money after bad".



We have also developed unique on-line data access software which allows high volume clients to access information concerning their files thereby ensuring that they have up to date (real time) information concerning each of the claims being handled by us.

Our relationship with the Court registries and agents throughout New Zealand and high volume of instructions to process servers means that we are able to offer our clients the most competitive rates available for each stage of the legal process.

Further details of the Turner Hopkins debt recovery process can be found on line at

www.turnerhopkins.co.nz/debt_recovery.php

Phone us to arrange a consultation or visit our website

www.turnerhopkins.co.nz



TURNER HOPKINS
RECOVERIES LIMITED

400 Lake Road, PO Box 33-237, Takapuna
Auckland, New Zealand

Ph: (09) 486 9570 **Fax:** (09) 486 7780

Email: recoveries@turnerhopkins.co.nz

www.turnerhopkins.co.nz