

Procedure: 3.1.13p.

Debt Collection Contract for Collection of College's Unpaid Accounts

Revised: March 14, 2006
Last Reviewed: March 14, 2006
Adopted: *March 30, 2001*



I. PURPOSE:

Note: This is a general contract for the collection of unpaid accounts at the college. Before it is signed, the college's representative should read it carefully. Underlined or blank spaces should be filled, but provisions in italics are optional language. These provisions may be used instead of the provided language.

II. RELATED AUTHORITY:

- O.C.G.A. § 20-4-11 – Powers of the Board
- O.C.G.A. § 20-4-14 – TCSG Powers and Duties

- III. APPLICABILITY: N/A
- IV. DEFINITIONS: N/A
- V. ATTACHMENTS: N/A

VI. PROCEDURE:

Note: This is a general contract for the collection of unpaid accounts at the college. Before it is signed, the college's representative should read it carefully. Underlined or blank spaces should be filled, but provisions in italics are optional language. These provisions may be used instead of the provided language. It is your decision either way.

This Agreement is made between [Full name and address of College] ("College") and [Full name and address of Other Contracting Party] ("Collector") ;

RECITALS

A. College occasionally has certain unpaid accounts for tuition, room, board, and/or loans and/or miscellaneous expenses that it is unable to collect through ordinary College collection efforts; and

B. Collector is experienced, staffed and equipped to collect unpaid accounts as they may be referred to Collector by College.

TERMS

In consideration of the mutual covenants and conditions contained in this Agreement, College and Collector agree as follows:

1.0 Referral of Accounts.

Collector agrees to accept for collection, and to promptly undertake the collection of, such unpaid accounts as College refers to it for collection upon the terms and conditions set forth in this Agreement. Collector shall attempt contact with the debtor within thirty (30) days after referral by

College of any such account. College may, in its sole discretion, refer accounts to other parties for collection.

2.0 Term.

This Agreement shall be for a term of months/years, commencing , 19 and ending , 19 .

3.0 Compensation.

3.1 For services rendered in collection of accounts referred to Collector under this Agreement, College shall pay to Collector a commission as follows:

3.1.1 % of the amount collected by Collector on all first placement accounts;

3.1.2 % of the amount collected by Collector from insurance companies;

3.1.3 % of the amount collected by Collector on each account that has been worked by another collection agency prior to referral by Collector;

3.1.4 % of the amount collected on accounts by Collector that require litigation.

3.2 The commission shall be the sole consideration paid to Collector, and College shall not be liable for any costs or expenses incurred by Collector in the collection of accounts, including attorney fees or other legal charges. No commission shall be invoiced or paid for any collections received outside the period of this contract. Collector shall be entitled to the commission or monies collected on accounts assigned before the termination of this Agreement, provided that such monies are collected within thirty (30) days following the termination date of this Agreement, unless otherwise agreed to in writing by College.

4.0 Collection of Accounts.

Collector will exercise due diligence to effect collection of all such accounts referred and will employ such lawful means, methods and procedures as in its judgment, discretion and experience it believes will effect collections. The commission described in this Agreement shall be the only charge to College for such services. In the collection of accounts under this Agreement, Collector will not harass or exert undue pressure on delinquent debtors or employ any procedure that would cast discredit upon College, defame or misrepresent College, or subject College or its officials to public disapproval. Collector shall not violate any guidelines concerning the collection of accounts established by the Federal Trade Commission or the State of Georgia, and shall comply with all applicable federal, state, and local laws and regulations with regard to collection practices and procedures, including, but not limited to the Fair Debt Collection Practices Act (15 USC § 1692) .

5.0 Settlement and Compromise of Accounts and Costs of Collection.

Collector shall have no authority to file any legal action on any account without prior written authority of College. College is to be notified of any attorney collector plans to use in the collection of any matter and the Technical College System of Georgia's Office of Legal Services may reject Collector's suggestion and designate another attorney to prosecute the actions. Collector shall be responsible for paying all costs expended for the collection of any account. No account referred to Collector shall be compromised or settled for less than the full amount without written consent of College. If there is any claim that the account is incorrect, such claims shall be referred to College for review and advice.

6.0. Reports.

6.1 Collector will prepare and give to [Administrator] of College by the day of each month, a report of all income, collections and disbursements of the prior month, together with all funds due College for that prior month, less Collector's commission.

6.1.1 Such reports shall include the designations of accounts collected, the original amount to be collected, and the total amount collected to date, all accounts determined to be uncollected and the reasons therefore.

6.2 Collector will, at the same time, prepare and submit monthly a list of all accounts for which no amounts were collected.

6.3 [Other reports can be required: listing of transactions, status of accounts, and listing of all contacts.]

6.4 Reports shall be confidential, and may only be released to others when permitted by College.

7.0 Payments on Accounts.

Should payments be made directly to College on any account referred to Collector, College shall promptly notify Collector in writing of such fact. For each such individual payment or paid account, Collector may request authorization to retain an amount commensurate with Collector's commission percentage from the collected payments being remitted to College.

8.0 Annual Financial Statement.

Collector shall provide College a copy of Collector's annual financial statement within ninety (90) days after end of Collector's fiscal year. In addition, College has the right, at its own expense, to examine and/or audit, or to have examined or audited, the records of Collector.

9.0 Recall of Accounts.

College may at any time, orally or in writing, recall any account that has been referred to Collector under this Agreement; and upon such recall, Collector shall immediately return such account, including any applicable files, to College and conclude its action thereon without any further charge to College on such account.

10.0 Suspension of Collection.

When requested by College, either orally or in writing, Collector shall suspend its collection efforts on any account and take no further action thereon until notified by College.

11.0 Surety Bond.

11.1 Collector shall maintain in favor of and for the protection and benefit of College, a surety or fidelity bond with the following characteristics:

11.1.1 In the total amount of dollars (\$) ;

11.1.2 It being the obligation of a Surety, Bonding or Insurance Company authorized to do business in the State of Georgia;

11.1.3 With the bond conditioned on Collector's accounting for, paying over, and delivering to College all funds and monies collected for and on behalf of College and due and owing College;

11.1.4 With a copy of the bond or a certificate evidencing its existence and general terms and conditions filed with College upon execution of this Agreement;

11.1.5 With a covenant agreeing to give College sixty (60) days' advance written notice of cancellation.

12.0 Termination.

12.1 College may terminate this Agreement at any time should Collector fail to observe or comply with any of the terms or conditions of this Agreement or in any way default under this Agreement, after giving Collector written notice of such failure or default and of College's intent to terminate; provided, however, that Collector shall have fifteen (15) days after the receipt of such notice in which to cure or correct such failure or default. No failure of College to act upon any failure or default of Collector hereunder nor any acceptance by College of any of Collector's effort to cure or correct any failure or default by Collector shall operate as a waiver or acceptance of such failure or default or any other failure or default, or preclude College from acting upon its rights hereunder upon any other or subsequent failure or default of Collector.

12.2 Collector may terminate this Agreement at any time should College fail to observe or comply with any of the terms or conditions of this Agreement or in any way default under this Agreement, after giving College written notice of such failure or default and of Collector's intent to terminate; provided, however, that College shall have fifteen (15) days after the receipt of such notice in which to cure or correct such failure or default. No failure of Collector to act upon any failure or default of College hereunder nor any acceptance by Collector of any of College's effort to cure or correct any failure or default by Collector shall operate as a waiver or acceptance of such failure or default or any other failure or default, or preclude Collector from acting upon its rights hereunder upon any other or subsequent failure or default of College.

[The other option is to provide for termination as follows: College or Collector may terminate this Agreement at any time upon thirty (30) days written notice by either party to the other. If Collector fails to fulfill in a timely manner its obligations under this Agreement, or if Collector shall violate any of its terms, College may terminate this Agreement immediately and Collector will be liable for any damages as a result of its breach.]

13.0 Return of Accounts on Termination of Agreement.

13.1 Should this Agreement for any reason be terminated, Collector shall take the following actions:

13.1.1 Cease collections on all accounts submitted by College and shall return such accounts, including any applicable files, to College along with all collections due College, less Collector's earned commission;

13.1.2 Provide a written report to College on the status of all uncollected accounts;

13.1.3 Within thirty (30) days of the termination of this Agreement, Collector shall promptly transfer to College any payments received on College's accounts, less Collector's commission.

14.0 Indemnification.

Collector shall defend, indemnify and hold harmless College, the Technical College System of Georgia, their governing boards, officers, employees, and agents against any and all claims, costs, demands, attorney's fees, causes of action, losses or damage that may arise as the result of any action or conduct by Collector or its agents or employees in the collection of accounts under this Agreement.

15.0 Assignment.

No assignment of this Agreement by Collector shall be valid without the written consent of College.

[Assignment of accounts shall not be permitted, any assignment or attempted assignment of any account shall constitute a breach of this Agreement.]

16.0 Notice.

Any notice to either party hereunder must be in writing, and signed by the party giving it, unless otherwise stated in this Agreement. Written notice shall be served (1) by hand, (2) through the United States Mail, postage prepaid, registered or certified, return receipt requested, or (3) through Federal Express, Express Mail, or other expedited mail or package service, if a receipt showing the delivery has been retained, addressed as follows:

To College: _____

To Collector: _____

or to such other addressee as may be hereafter designated by written notice. Notice shall be effective upon receipt and receipt shall be deemed given (1) days after such notice has been deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid, (2) one business day after such notice has been deposited with Federal Express, Express Mail, or other expedited mail or package delivery service guaranteeing delivery not later than the next business day, or (3) upon hand delivery to the address and person designated.

17.0 Governing Law; Forum.

This Agreement shall be governed by and construed under the laws of the State of Georgia, and shall be the forum for any lawsuits arising from an incident to this Agreement.

18.0 Severability.

If any provision of this agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby.

19.0 Non-Waiver.

The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach, either of the same provision or otherwise.

20.0 Modification.

This Agreement may be amended at any time only upon mutual agreement in writing of the parties.

21.0 Non-Discrimination.

In fulfilling the obligations contained in the Agreement, Contractor and all those under the direction of Contractor involved in the performance of this contract will not unlawfully discriminate against any individual on the basis of race, color, national origin, religion, sex or disability, status as a disabled veteran, or veteran of the Vietnam era, and will comply with all non-discriminatory laws and policies that College promulgates and to which College is subject.

22.0 Entire Agreement.

22.1 This Agreement (and its attachments, if any) constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral and written, relating hereto. Any amendment hereof must be in accord with the above paragraph on "Modification."

22.2 With regard to the services performed by Collector for College under this Agreement, it is understood that Collector is acting as an independent contractor.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on this day of , 19 .

COLLEGE: COLLECTOR:
Full Legal Name of College Full Legal Name of Collector

by _____ by _____
(Signature) (Signature)

(Printed Name) (Printed Name)

(Title) (Title)

VII. RECORD RETENTION: N/A

Attachment: 3.1.13p.a1. (II.A.2.g) Returned Check Forms

MEMORANDUM

TO: *(Name of issuer of returned check)*
(Address of issuer of returned check)
(City, State, and Zip Code)

FROM: *(Vice President of Administration)*

DATE:

RE: **Returned Check - First Notice**

Listed below is a check that has been returned to the college due to insufficient funds:

Name on account: _____
Check Number: _____
Dated: _____
Amount: _____

In order to prevent further action by the college, you have ten (10) days from the date of this notice to satisfy this debt. You must bring certified funds (Cash, cashier's check or money order) to the _____ (Business Office) in the amount of \$ _____. This includes a fee of \$ _____ as a returned check charge in accordance with college policy on personal checks. Our office hours are _____.

If you fail to satisfy this debt by _____ (Insert date 10 days in the future), the college will place an "administrative hold" on all your college accounts and services. You will not, for example, be allowed to graduate, register, or receive grades or transcripts. If this check was for tuition, you will be dropped or withdrawn from class(es). In addition, the college has a variety of options to collect this debt, including but not limited to criminal prosecution, civil lawsuit or turning this matter over to a collection agency.

Protect your good name and credit rating. Please contact me promptly at _____ (Telephone number).

MEMORANDUM

TO: *(Vice President for Instructional Services)*
(Vice President of Student Services)

FROM: *(Vice President of Administration)*

DATE: *(Should be sent on the 11th (eleventh) day after the FIRST NOTICE was sent)*

RE: **Administrative Hold**

Name of Student: _____
Student Identification Number: _____

This is to advise you that the student referenced above is in violation of the college's policy on personal checks. Please place an "administrative hold" on all college accounts and services to this student. This means the student should not be allowed to graduate, register for classes, receive grades or college transcripts, etc.

Optional additional sentence:

In addition, since the check violation was for tuition, please take appropriate action to administratively drop/withdraw this student from all present class(es).

Thank you for your assistance. If you have any questions about this matter, please contact me at _____ (Telephone number).

CC: *(Student who issued the returned check)*
(Financial Aid Director)
(Registrar)

VIA CERTIFIED MAIL- RETURN RECEIPT REQUESTED

MEMORANDUM

TO: *(Name of issuer of returned check)*
(Address of issuer of returned check)
(City, State, and Zip Code)
FROM: *(Vice President of Administration)*
DATE:

RE: Returned Check - Second Notice

You are here by notified that a check or instrument numbered _____ issued by you on _____ (Date), drawn upon _____ (Name of bank), and payable to _____ (Name of college) has been dishonored. Pursuant to Georgia law, you have 10 days from receipt of this notice to tender cash payment of the full amount of the check or instrument plus a service charge of _____, the total amount due being \$_____.

Unless this amount is paid in full within the 10 day period, as holder of the check or instrument I may file a civil suit against you for two times the amount of the check or instrument, but in no case more than \$500.00, in addition to the payment of the check or instrument plus any court costs incurred by the college in taking this action. If you have any questions, you may contact me at _____ (Telephone number).

Signature - Vice President of Administration

RELATED AUTHORITY:

O.C.G.A. § 20-4-11 – Powers of the Board

O.C.G.A. § 20-4-14 – TCSG Powers and Duties

Attachment: 3.1.13p.a2.

Referral Letter to Collection Agency Form

Date: _____

Dear Collection Agent:

The following account(s) is(are) assigned and referred to you for collection in accordance with the terms of the Collection Agreement between us, which Agreement is made a part of this Assignment. Please proceed to collect the account. You are authorized to endorse in our name for deposit and collection all payments received on this account.

As provided in the Collection Agreement, you are not authorized to threaten or initiate legal proceedings with regard to the described account without written authorization from the college's president. If you are unable to collect anything on this account, you may return it to us or to the attorney that we may designate. If you are unable to collect anything on this account for a period of more than days/months, the account must be returned. It is specifically understood that the Institution is engaging you because of your expertise in debt collection and your knowledge of the laws governing this activity. You specifically agree to comply with those laws in conducting your collection activities.

Sincerely,

[College Administrator]

Description of Accounts

Debtor: _____

Last known Address: _____

Last known Phone Number: _____

Amount Owed: \$ _____

Basis of Debt: _____

Date of Last Charge: _____

Date of Last Payment: _____

Currently Employed or Active in Business: _____

Bank: _____

Additional Comments: _____

By: _____