

# Debt Management Plan Terms and Conditions

The terms of this agreement are set out in the following terms and conditions. **These are important.** You should read them carefully to make sure you're happy with them. If there is anything you do not understand you should seek advice.

The agreement between you and us is made on the following terms and conditions.

## 1. Definition of terms.

**'We, us'** means Curtis Faraday Limited (or anyone to whom we transfer or assign our rights and obligations under this agreement).

**'You'** means the person or people whose names are listed below.

**'Cleared funds'** means:

- any funds we have received through electronic transfer into our bank account or (as the case may be) our client account with our bank (for example, standing order or debit card payments) which we know came from you and which have not been returned unpaid;

- any cash, postal order or banker's draft made payable to us or to our client account that we have received from you and which we know came from you; or

- any cheque received and banked by us either into our bank account or our client account, but only if we have not received notice from our bank that the cheque has been returned unpaid within 10 days.

**'Creditors'** means all the organisations or people, or both that you have told us that you owe money to and who are referred to in the monthly payment plan.

**'Disposable income'** means the amount of money you have available to repay to your creditors each month having taken account of your income, your reasonable living expenses and any other necessary financial commitments, including payments to secured creditors. This is calculated by us from the financial information you provide to us.

**'Initial fee'** means the payment you make to us (made payable to Curtis Faraday Ltd) in order for us to set up your monthly payment plan with your creditors. This is calculated from the financial information you provided to us in the application process (please refer to the Client Information Pack sent with these Terms and Conditions for further details). It will be used to cover our initial costs in collecting and reviewing your documentation, for setting up your monthly payment plan and for our professional services in liaising with your creditors. The Initial Fee is retained by us and will not be paid to your creditors. This is the equivalent to the first one month's payment to the plan.

**'Management fee'** means a charge, equal to 15% of each monthly payment you make under the monthly payment plan. This fee will be at least £25. If in any month, you pay us an amount, which is less, or more than the monthly payment as set out in your monthly payment plan, we will adjust our management fee for that month as described in clause 3b. We reserve the right to vary the management fee or any part of it at our own discretion upon 30 days written notice to you.

**'Monthly payment'** means the regular payment that you will be required to pay in cleared funds to the monthly payment plan as set out in the Client Information Pack. The monthly payment amount is calculated by us from your disposable income. If your disposable income subsequently changes then the monthly payment amount may also change, subject to both you and our prior agreement.

**'Monthly payment plan'** (which is your Debt Management Plan) means the plan of repayment by which you are able to repay your creditors through us according to your disposable income. It includes any changes made to the plan.

**'Period'** means an estimate (based on information you have given us) of the minimum period, it will take you to repay all of your creditors in full, through us, by using the monthly payment plan. We work out this period by dividing your total declared debt by your disposable income (used to work out your monthly payment plan) less our management fee. For more information about the period, see clause 2f.

**'Service'** means the service we agree to give you as set out in clause 4.

**'Total amount'** means an estimate of the total amount you will pay to us during the period to complete your monthly payment plan. We work out this total amount by adding the total fees to your debts as set out in the monthly payment plan. It is important you understand that the total amount is an estimate. You will find details about the total amount in the Client Information Pack.

**'Total fees'** means an estimate of the total fees you will pay to us during the period. We work out this total fee by multiplying the monthly management fee by the number of months in the period and adding the initial fee. It is important you understand that the total fees is an estimate. You will find details about the total fees in the Client Information Pack.

## 2. Agreement – Your attention is specifically drawn to this clause 2.

2a. You have asked us, and we have agreed, to provide you with a debt repayment service, together with advisory and administration services, as described in these Terms and Conditions.

2b. The agreement between you and us and our obligation to provide the Service to you will start once you confirm your acceptance of these

Terms and Conditions either by telephone, by returning the Client Information Pack or, if earlier, the day we receive the Initial Fee from you in Cleared Funds. We may however defer or suspend the provision of the Service until we have received payment of the initial fee in full. Once you have returned the Client Information Pack to us however you will be liable to pay the initial fee to us. However, we may cancel this agreement, pursuant to clause 9, by giving you notice in writing if any cheque or other payment for the initial fee is returned unpaid from our bank.

What if I change my mind after I have agreed to the plan?

2c. You have a 'cooling-off' period. You have a right to cancel the agreement at any time during the first 14 days of the Term. Days include Saturdays, Sunday and Public Holidays. You may cancel the agreement by sending written notice by registered post to Curtis Faraday Ltd, 1<sup>st</sup> Floor, 7 Park Street, Manchester, M3 1EU or by Faxing us on 0161 832 6598. This agreement will then be at an end and we will, refund you in full, all monies, which you have paid us and which have cleared through our general client bank account (including your Initial Fee). Please note we are unable to accept verbal cancellation instructions and we will only accept signed written notification from you.

2d. You may also end this agreement at any time and for any reason, by giving us two weeks written notice as per the details given in 2c. If you provide us with written notice to cancel outside of the 'cooling-off' period this agreement will then be at an end. However, we will be entitled to retain in full the initial fee, which you have paid and which has cleared through our bank account.

2e. When you start your monthly payment plan and pay your Initial Fee you may fall behind (or further behind) with your creditors. Unless your Creditors agree to reduce or freeze interest and any other charges, this will lead to an increase in the total amount of debt you will have to repay to your creditors. Also, this may affect your credit rating and you may find it difficult to get credit until you complete your monthly payment plan, and even after that time. Because we issue monthly payments to your creditors after receiving payment from you in cleared funds, the date that we make payment to your creditors may not match the date that your contractual payments to your creditors are due. We cannot guarantee that your creditors will not charge you interest, penalties and any other charges as a result of this or take legal action.

2f. This agreement will continue for the period or until you end the agreement as set out in clauses 2d and 8 or we end the agreement as set out in clause 9. It is important you understand that the period is an estimate and will increase if:

- your disposable income reduces and we have to reduce your monthly payment as a result: or

- your creditors charge you interest, penalties and any other charges after your monthly payment plan has started.

2g. Our total liability for all claims of any kind under this agreement shall not exceed an amount equal to the Initial Fee you make to us.

2h. In any case, we will not be responsible for any delay or other things, which happen for reasons beyond our reasonable control.

2i. This clause does not affect our liability for death or personal injury resulting from our negligence. Nothing in this agreement affects your legal rights.

## 3. What you pay – Your attention is specifically drawn to this clause 3.

3a. You will pay us our initial fee and then a monthly management fee. After you have paid our initial fee, you will pay into our client account a monthly payment as set out in your Client Information Pack. The amount of our monthly management fee and initial fee is shown in the Client Information Pack.

3b. If in any month you pay us an amount which is less or more than the monthly payment as set out in your Client Information Pack, we will reduce or increase our management fee for that month proportionately.

3c. Our management fee is due to us at the time we issue payments to your creditors. We collect our management fee from the client account as set out in clause 7.

3d. If during any month you fail or are unable to make your monthly payment to us the monthly management fee will still be payable if work is carried out for you.

3e. At any time following expiration of the 14 day 'cooling-off' period and in the event you have not, during the cooling-off period, notified us in writing of your intention to terminate this agreement with us, if for any reason your DMP does not proceed whether by termination of this agreement or otherwise, we shall be entitled to retain in full the Initial Fee.

3f. We also offer to negotiate Full & Final settlements on behalf of our clients which means your Creditor(s) may agree to reduce your debt if you make a lump sum payment. Our fees are negotiable on a case by case basis and will reflect individual circumstances and case complexities, but will usually be a maximum of 15% of the total monies saved by our ability to achieve reduced full and final settlements.

#### **4. What we will do.**

4a. After we receive the client information pack, signed by you, and payment of the initial fee, we will liaise with you and your creditors as necessary so we can provide the Service to you.

4b. We will send you an initial monthly statement confirming details of the initial fee, the monthly management fee, the total fees, the total amount and the period.

4c. Having received payments from you in cleared funds into our client account, as described in the monthly payment plan, we will issue payments to your creditors, after deducting our management fee. We will issue these payments promptly and normally within five working days of receiving cleared funds from you. If we have not issued these funds to your creditors within this timescale, we will take all reasonable steps to contact you and let you know what has happened and the reason for the delay.

4d. If in any month you pay us an amount which is less than the monthly payment as set out in your monthly payment plan, we may not issue payments to your creditors as described in clause 4c if these payments would be below the amounts normally accepted by your creditors.

4e. So that we can issue payments for you to your creditors, we will let them know about your financial circumstances and our involvement. We will then make revised offers of payment to your creditors for the debt, or debts, you owe as described in the monthly payment plan.

4f. We will ask your creditors to accept the revised payments and to suspend or withdraw any enforcement proceedings which are related to your debts with them.

4g. We will keep you regularly updated with our dealings with your creditors.

4h. Shortly before or at the time we issue your first monthly payment to your creditors, we will send you a statement showing the payments we will issue or have issued to your creditors and (as far as possible from the information we have received) any changes to the monthly management fee, the total fees, the total amount and the period. This will then be your revised monthly payment plan.

4i. We will confirm in writing all further monthly payments which we issue to your creditors, giving full details of the amount we have issued.

4j. On or around each anniversary of the start of this agreement, we will contact you to review your monthly payment plan. We will review each debt and may contact your creditors to ensure the information we hold is updated. We will review whether the information we hold in relation to your circumstances is up to date. As part of this process we will try and identify how you may be able to pay off your debts more quickly. Then in light of the payments we are issuing to your creditors and any other relevant circumstances, we will send you an updated statement showing the details of the revised monthly payment plan, management fee and period.

4k. If your circumstances change and your request is reasonable and you ask us in writing, we will also review your current monthly payment plan, on the same basis as set out above in clause 4j.

4l. If at any time a change is made to the monthly payment plan, we will then send you an updated statement showing the details of the revised monthly payment plan, management fee and period.

#### **5. What we do not do.**

5a. We do not lend you money or give you any credit facilities.

5b. We do not issue payments to your creditors without having first received cleared funds from you.

5c. We do not give you legal advice.

5d. While we will try to make sure that your creditors freeze or reduce interest and any other charges, we cannot stop your creditors continuing to charge interest and any other charges if they want to do this. If this is the case, then this will result in an increase in the total debt you have to repay and an increase in the period.

5e. While we will try to make sure that your creditors suspend or withdraw any enforcement proceedings, we cannot stop your creditors sending you default notices or taking, or continuing with, any other legal action to recover your debts with them if they want to do this. If your creditors take or continue with this action, you may have to pay costs which they will add to your debts.

5f. We do not issue reduced payments, on your behalf, on secured loans. You must make sure that you continue to make your usual payments in full towards any mortgage or other secured loans. However, we will take these payments into account when we work out your disposable income in the monthly payment plan.

5g. We do not issue reduced payments, on your behalf, for your utility bills (for example, water, gas, electricity bills, and so on). You must continue to make all your normal payments towards your utility bills and Council Tax payments. However, we will take these payments into account when we work out your disposable income in the monthly payment plan.

5h. We reserve the right to exclude from the monthly payment plan unsecured debts that are less than three months old at the time this agreement starts and certain other debts at our discretion. We will take these payments into account when we work out your disposable income in the monthly payment plan.

5i. Unless you let us know about a change in your financial position or circumstances, we will only consider whether changing your monthly payment plan would be in your interests when we review your monthly payment plan as set out in clauses 4j and 4k.

#### **6. What you will do.**

6a. If we are to provide the service, you must co-operate with us, making sure that the monthly payment plan reflects your financial position, and you must follow the monthly payment plan. This means that you will do the following.

1. You will give us any information we may legitimately request relating to your finances or personal circumstances. This will include, but not be limited to, all details of:

- your income and expenses;

- your dependants;

- your assets;

- your creditors and all your agreements you have taken out with them;

- any mortgages or secured loans you have;

- copies of any judgments made against you; and any other enforcement action. Using this information, we will work on your behalf.

2. You will endeavor to ensure that all information you provide to us is, to the best of your knowledge, accurate and not misleading.

3. You will make the payments to us in full, promptly each month, as described in the monthly payment plan.

4. You will continue making payments as described in the monthly payment plan until you have repaid all of your creditors in full by using our service (including all interest, charges and penalties your creditors may charge after the monthly payment plan has started).

5. You will sign any necessary forms of authority or other documents so that we may carry out our obligations under this agreement.

6. You will promptly supply us with copies of all correspondence you receive from your creditors and provide us with details of any dealings you may have had with any creditors, whether we are in contact with them on your behalf or not.

7. You will not ignore correspondence or any other communications from your creditors or any person acting on behalf of a creditor. However, you will not enter into direct negotiations with any of your creditors (unless requested in writing by us to do so) that could have the effect of preventing us from fulfilling our obligations under this agreement.

8. You will not spend any money over and above your reasonable living expenses as described in the monthly payment plan.

9. You will not continue to use any existing credit facility, including any credit or charge cards, and will not apply for any further credit from any source.

10. You must tell us as soon as possible about any changes in your circumstances which might affect your disposable income or the viability of your monthly payment plan.

11. You will consult us whenever we need to review your monthly payment plan.

12. You will agree to any reasonable and necessary changes to the monthly payment plan. If you do not agree to the changes we suggest, you will tell us why you think they are not reasonable and necessary.

13. You will accept that the Initial Fee is retained by us and will not be paid to your creditors.

14. Lack of contact from you will not be considered cancellation of the Agreement. If you wish to terminate this Agreement you must serve notice on us in accordance with clause 2d.

6b. By signing the Client Information Pack:

1. You authorise us to liaise on your behalf and exchange Personal Information with your creditors or their authorised agents on your behalf, let them know about your financial circumstances and our involvement and make arrangements with them in relation to the debt or debts you owe; so that we may provide the Service to you.

2. Except for our initial fee (see clause 3a), you instruct us to use the payments we receive from you to issue payments to your creditors as described in the monthly payment plan, after we have taken off our management fee.

3. You confirm that none of the debts you have instructed us to deal with are secured or as set out in clause 5g.

4. You agree to provide us with the necessary information and documentation (if requested) to enable us to ensure that our client verification requirements are met.

## 7. How we hold your money.

7a. We will hold your monthly payments under your monthly payment plan (less any management fees due to us) on trust for your benefit, in a client account with our bankers, on your behalf together with money we hold for our other clients. This does not include our initial fee. In the event of our insolvency, all of the money in the client account (less any management fees due to us) would be distributed to our clients in line with the terms of the trust as set out in this clause. We do not pay interest in respect of money held in our client account.

7b. The initial fee is paid into the client account. However, if the initial fee is paid into our own account this will not be transferred into the client account.

7c. We will pay your creditors direct from the money we hold for you in the client account. We will only take our management fee from the client account when we make payments to your creditors. Money which we pay to creditors from the client account will not be governed by this trust once the payment is made. Any money held for you in the client account, which is not due to creditors or to us under this agreement, may be paid to you or to your order through a UK bank account, in your name or (where you hold a joint account) in your name and the name of the other person.

7d. If there is any money which we hold for you in the client account and we are for any reason unable to pay it to you in line with these terms, we will write to you to ask for your instructions for payment. If after six years from the date of your last monthly payment we have not received your instructions, we may pay that money out of the client account and into our own account and treat it as our money. We will have no further obligation to pay this money to you.

7e. We will keep our client account records for at least seven years from the date of your last monthly payment.

## 8. How you may end this agreement.

You have the right to cancel this agreement under clause 2c. You may also end this agreement at any time and for any reason by giving us two weeks written notice as per clause 2d.

## 9. How we may end this agreement.

We may end this agreement by giving you two weeks written notice if any of the following happens (and we will tell you the reason for the notice).

1. If you fail to pay in full the Initial Fee within the 14 days of the return to us of your Client Information Pack and supporting documentation.
2. If you fail to make at least one full monthly payment in any three-month period and at least eight full monthly payments in any 12-month period that you have a monthly payment plan with us.
3. If you fail in any important way to do what you agree to do in clause 6 above and do not rectify the problem within seven days of us telling you about it.
4. If the information you have given us turns out to be or we suspect that it is materially incorrect, incomplete, fraudulent or otherwise misleading.
5. If the information you gave at the time of acquiring credit was materially incorrect or incomplete or was fraudulent.
6. If you have or (if 'you' includes more than one person) one of you has a bankruptcy petition issued against you.
7. If you enter or (if 'you' includes more than one person) one of you enters into an Individual Voluntary Arrangement, Bankruptcy or Debt Relief Order.
8. If you die or (if 'you' includes more than one person) one of you dies.
9. If we cannot perform our obligations under this agreement because of something beyond our reasonable control. In this case, we will do everything we reasonably can to let you know as soon as possible.
10. You do or fail to do something, which in our reasonable opinion could damage our reputation or otherwise bring us into disrepute.

## 10. The effect of ending this agreement.

When this agreement ends, our duties and obligations under this agreement will come to an end. We will return any money that we may be holding for you in our client account. You will not have to pay us any more money.

## 11. Other information.

11a. If at any time you are not happy with the service that we have given you, in the first instance, please telephone the business area you usually deal with in order to explain your concerns. If you want to write to us, please send your complaint to: Compliance Department, Curtis Faraday Limited, 1<sup>st</sup> Floor, 7 Park Street, Manchester, M3 1EU. A copy of our Internal Complaints Procedure is also available upon request from the contact details given above. Using our Internal Complaints Procedure will not affect your legal rights. Should the matter not be resolved to your satisfaction, you may refer your complaint to the Financial Ombudsman Service (FOS), South Quay Plaza, 183 Marsh Wall, London,

E14 9SR or visit the website <http://www.financialombudsman.org.uk> or email [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

11b. You should keep copies of all documents that you send to us as we carry out all our work on computer-scanned document images to improve our efficiency.

11c. With the exception of the cancellation notice under clause 2c, which must be sent by registered post (or fax), any notices we or you serve under this agreement will be valid if sent by first-class post to the address shown in this agreement.

11d. We may subcontract any or all of our obligations under this agreement to another person or organisation. If we do this, we will still be responsible to you under this agreement.

11e. We may transfer any or all of our rights and obligations under this agreement. If we do this, we will write to you to let you know the details.

11f. We may give any notice to you under these terms and conditions by writing to you at your last address that you have provided to us. Similarly you may give any notice to us by writing to us at our address in clause 11a. Any such notice shall be deemed to have been given if sent by first class post 48 hours after posting. This shall not affect any rights you or we have to give a notice by any other method.

11g. This agreement shall be governed and construed by English law and that the courts of England shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement.

11h. Curtis Faraday Ltd is registered in England and Wales. Reg No. 6575396. Registered office address 1<sup>st</sup> Floor, 7 Park Street, Manchester, M3 1EU. Consumer Credit Licence no 628015.

## 12. Data protection statement.

12a. We know how important it is to protect your Personal Information. Any Personal Information we hold will be subject to the appropriate legal safeguards under the Data Protection Act 1998. When you apply for our Service, you will provide us with information about your financial and personal circumstances ("Personal Information"). Any information you give to us will be confidential. This Personal Information will only be passed on to your creditors and such third parties as are required to know it for the purposes of performing the obligations under this agreement. We will not pass this information to anyone else without your express permission, except in accordance with our data protection statement and to the creditors you have authorised us to deal with or their authorised agents, or both. We will process your Personal Information in accordance with the terms and for the purposes of this agreement.

12b. We may share Personal Information within our company and with any other associated company in order to fulfill our obligations under this agreement. We may communicate with you by the following means (post, telephone, fax, email or SMS text) using the contact details that you have provided.

12c. We may also use your Personal Information for marketing purposes to identify and provide you (by post, telephone, fax, email or SMS text) with details of other similar products and services which we, our associated companies, or an approved third party deem could be of interest to you.

12d. By signing and returning the Client Authority Form you will be giving consent for your details to be used as stated. You can tell us if you do want to receive marketing information from us, an associated company or a third party by ticking the appropriate box or writing to the address below. Otherwise, we will only disclose your Personal Information in accordance with relevant laws or regulations (including fraud prevention).

12e. You may ask us for a copy of the information we hold about you. You may also ask us to amend your personal information if it is inaccurate. Please send requests in writing to: Data Protection Manager, Curtis Faraday Ltd, 1<sup>st</sup> Floor, 7 Park Street, Manchester, M3 1EU.

12f. We may change our privacy policy from time to time (details of which can be found on our website [www.curtisfaraday.co.uk](http://www.curtisfaraday.co.uk)). We may record and monitor calls for service quality.