

**LAW OFFICE OF JEFFREY S. KIMMEL**  
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Admitted in NY & NJ

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**RETAINER AGREEMENT**  
Commercial Debt Collection

You have asked The Law Office of Jeffrey S. Kimmel to represent your company \_\_\_\_\_ in the collection of a delinquent account from Debtor, and we have agreed. The purpose of this letter is to summarize and confirm the terms and scope of Attorney's representation. Please review this agreement and if it meets your approval please execute it and return it to our office.

**A. PARTIES**

This agreement shall be between The Law Office of Jeffrey S. Kimmel (hereinafter "Attorney") and \_\_\_\_\_ (hereinafter "Client").

**B. SERVICES & FEES**

1. Attorney shall represent Client for the purpose of attempting to collect a commercial debt due and owing to Client. Attorney will contact the debtor regarding the account, negotiate with the debtor, and settle with the debtor if Client approves and consents to settlement. If necessary, Attorney shall commence litigation against the debtor by filing a Summons and Complaint in the appropriate jurisdiction.

2. Attorney's fee for representation of Client as outlined above will be contingent upon successful collection of sums due and owing to Client. For sums collected by Attorney on Client's behalf *prior* to commencement of litigation, Attorney's contingent fee will be **Twenty Five Percent (25%)** of all sums (or value of goods) collected. For sums collected by Attorney on Client's behalf *after* commencement of litigation, Attorney's contingent fee will be **Thirty Three and 1/3 (33 1/3%)** of all sums (or value of goods) collected. Litigation is "commenced" by Attorney drafting a Summons and Complaint or upon Client instructing Attorney to commence litigation by filing a Summons and Complaint.

3. Attorney's contingent fee opportunity vests upon Client's execution of this agreement and applies to all further, separate, and/or additional request(s) made by Client to Attorney in writing wherein Client asks Attorney to pursue any other collection matter(s) on Client's behalf.

4. Client agrees to forward to Attorney for deposit into Attorney's trust account any and all payments received directly from debtor(s) on account(s) / debt(s) assigned to Attorney by Client. In the event that Client does not forward to Attorney any and all payments received directly as such, Client agrees to immediately pay Attorney the applicable collection fee due and owing to Attorney pursuant to the terms of this Agreement. Net recovery will be returned to Client, calculated as: Net Recovery = Total Sum Collected – (Attorney's Fee + Costs).

5. Attorney's services under this Agreement shall NOT include: appellate work, work involving Bankruptcy Court, pursuit of injunctive relief, pursuit of provisional remedies (e.g., applications for writs of attachment or writs of possession), work involving Probate Court (including but not limited to any prerequisite action with respect to an estate), or defense of cross-complaints or counter-claims or separate suits against you. If a petition in bankruptcy is filed after any collection is made and the trustee in bankruptcy successfully alleges a preferential payment, Attorney will not be liable to return any portion of sums collected or fees earned. In the event of cross-complaints or counterclaims or separate suits against Client, Attorney will charge an hourly rate of \$300. A retainer of \$1,500 shall be paid prior to defense of said claims. These hourly fees are separate and apart from any contingency fee earned as described above in Paragraph A(2) of this agreement.

**C. EXPENSES AND ALLOCATED CHARGES (DISBURSEMENTS)**

1. Client shall be responsible for, and agrees to pay, all costs and disbursements incurred by Attorney in the course of Attorney’s representation of Client as outlined above. Attorney may, at his sole option, advance costs and disbursements, which are immediately due. Attorney reserves the right to require additional funds, which shall be deposited in Attorney’s Trust Account and credited to Client’s account and shall constitute advance payment against subsequent costs and fees incurred and disbursed.

2. Client authorizes Attorney to endorse and deposit into Attorney’s Trust Account checks and other negotiable instruments made payable to Client and to withdraw Attorney’s Fee(s) and Costs from the same. At Attorney’s option, Attorney will use sums collected to offset any fees or costs due and owing to Attorney by Client arising out of any account assigned to Attorney for collection and/or litigation.

3. Any disbursement(s) made to any third-party (e.g., Sheriff, Marshal, or other entity or Police Agency) in the course of collection or judgment execution shall be disbursed from Client’s gross recovery. Attorney's fee will then be calculated from remaining net recovery sum.

**D. LAWYERS**

Attorney expects that most work will be performed or supervised by Jeffrey S. Kimmel, Esq. (a partner in this firm) who will be assisted by various co-counsel at this firm. However, Attorney reserves the right to assign other lawyers within or without this firm to perform legal services if in Attorney’s judgment that becomes necessary or desirable.

**E. TERMINATION OF LEGAL SERVICES**

If we are discharged for any reason, we shall be entitled to receive from you any and all monies due and owing to us on account of legal fees incurred and/or costs advanced and/or the reasonable value of our services and/or a lien on any pending action upon which we provided collection and/or legal services.

**F. MISCELLANEOUS PROVISIONS**

If this Agreement is signed on Client’s behalf, Client and signatory both warrant that signatory has full authority as agent to bind Client to the terms of this Agreement. By signing this agreement, you warrant that you possess full authority as agent to bind Client to the terms of this Agreement. Your signature signifies Client’s acceptance of these terms. Any copy of this Agreement shall have the same effect as the original. This Agreement shall become effective upon execution by Client.

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Client  
Address  
City, ST ZIP  
Telephone

\_\_\_\_\_  
By: Jeffrey S. Kimmel, Esq.  
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