

SECTION A: TERMS AND CONDITIONS FOR THE SUPPLY OF SECURITY SERVICES (ON-DEMAND,CASUAL)

1. DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires:

“Commencement Date” means the date of which services have been requested.

“Premises” means any premises you have specified to us.

“Services” means those security services described in clause 2.

“We”, “us” and “our” means First Security Guard Services Limited and includes its officers, employees, contractors, agents, successors and assignees.

“You” and “your” means you, the Customer.

2. SECURITY SERVICES

We will provide to you goods and services as requested by you or by your authorised supplier; this means that we will accept instructions from your alarm monitoring company on your behalf. Unless specified in writing and agreed by us, the following composes our terms of trade for all business dealings.

3. CHARGES

3.1 **Charges:** Charges for all security services (to the extent applicable) will commence on the commencement date as specified on this agreement and will be invoiced on a weekly basis thereafter. Payment is to be made by the 20th day of the month following.

3.2 **Fees:** You shall pay us for providing the Services from the Commencement Date. All charges shall be increased by the amount of any goods and services tax or other applicable taxes.

3.3 **Payment:** Payment for all Services is to be made by the 20th day of the month following the provision of the relevant Services. You must make payment of all amounts under this Agreement without set off, deduction or withholding of any kind.

3.4 **Default interest:** If you default for any reason in payment of any amount on the due date (time being strictly of the essence), you shall pay to us on demand, interest at a rate equal to 5% above the current overdraft rate which we have with our principal bank, calculated by us on a daily basis on the amount so unpaid from the due date until payment. Charging of this interest will not limit any of our other rights or remedies under this Agreement or otherwise in respect of your default.

3.5 **Debt collection:** You must pay all costs and expenses (including costs on a solicitor/client basis and debt collectors' costs) we incur in enforcing or attempting to enforce our rights under this clause and otherwise under this Agreement.

3.6 **Variation of charges:** Notwithstanding anything in 3.1, we may adjust the charges at any time by an amount that we in our sole discretion determine is necessary to take account of any alterations you may make to the Premises or other factors which affect the cost to us of providing the Services (including, but not limited to, increased wages, increased fuel costs, increased equipment and equipment maintenance costs and legislative changes (including in relation to holidays and other benefits to our employees and/or contractors).

3.7 **Additional charges:** If one of our security guards providing services to you is required to attend the Premises for any length of time at your request or in response to an incident, or if you otherwise request us to carry out additional services, such additional time incurred and/or additional services provided shall be subject to the terms of this Agreement and the charges payable by you for such additional time and/or services based on our standard rates at the time, plus in all cases the amount of any goods and services tax or other applicable tax.

4. TERM AND TERMINATION

4.1 **Term:** This agreement is for the supply of security services on a ‘casual’ / ‘on-demand’ basis.

4.2 **Early termination:** This Agreement shall immediately terminate upon the occurrence of any one of the following:

(a) you:

- (i) Provide us with a least four hours' notice;
- (ii) are, become, or are deemed to be bankrupt or insolvent or any resolution is passed, or any proceeding is commenced, for your liquidation (whether voluntarily or otherwise); or
- (iii) make an assignment for the benefit of, or enter into or make any arrangement or composition with, your creditors or are unable (or deemed to be unable) to pay your debts as they fall due; or
- (iv) go into receivership or have a receiver, trustee, administrator or manager (or any of them) (including a statutory manager) appointed in respect of all your property.

4.3 Consequences of termination: The termination of this Agreement shall be without prejudice to any rights, remedies or obligations accrued under this Agreement prior to termination or expiration and nothing in this Agreement shall prejudice our right to recover any amount outstanding at such termination or expiry.

5. AUTHORITY

5.1 Access to Premises: Execution of this Agreement by you grants us full authority to access the Premises for the purposes of carrying out the Services and generally protecting your business, property and persons.

5.2 Authority to take reasonable steps: If we become aware of a security issue that may impact on you or the Premises, and we are unable to contact you to obtain instructions, we are authorised to take reasonable steps to protect the integrity, safety and security of the Premises, property and personnel, at your expense.

5.3 Notification: You shall notify us immediately if any changes are made to the access ways, and/or locks, at the Premises.

5.4 Contact person: Without limiting the other persons that bind you, the contact person requesting services on your behalf has the full authority to bind you in all matters connected with this Agreement.

6. REPRESENTATIONS AND WARRANTIES

6.1 Consumer Guarantees Act: If the Services are acquired by you for business purposes, you agree that the Consumer Guarantees Act 1993 does not apply to this Agreement in respect of the Services.

6.2 Your representation: You represent that you have not relied on any representation made by us which has not been expressly stated in this Agreement and without limitation you acknowledge that we have not represented to you that by entering into this Agreement, or by receiving the Services from us, you, your Premises and/or your other property will be safe from unlawful entry, loss, damage or injury.

6.3 Occupational health and safety:

(a) By execution of this Agreement you warrant that the Premises are safe and free from harmful materials, infections or building diseases, or any environmental matters or issues, and any other materials, that could be harmful to one or more of our employees and/or contractors.

(b) It is your responsibility to notify us of any hazards on or around the Premises and to advise us of any special safety procedures we need to follow when providing the Services.

6.4 No guaranteed response times: Where we provide you with alarm response services under this Agreement we do not guarantee that we will respond to an alarm and attend the relevant Premises within any particular timeframe. Our only obligation in responding to an alarm is to secure the relevant Premises upon arrival.

7. LIMITATION ON OUR LIABILITY AND INDEMNITY

7.1 Liability: We shall not be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind suffered or incurred by you arising directly or indirectly from the performance or non-performance of our obligations under this Agreement (including, but not limited to, a failure to meet any service level agreed to for the purposes of the Agreement), any breach of our obligations under or in connection with this Agreement or from any negligence, misrepresentation or other act or omission on our part or the part of our employees, agents or contractors.

7.2 Maximum liability: Notwithstanding anything else in this Agreement, our liability, whether in contract or pursuant to any cancellation of this Agreement or in tort or otherwise, in respect of all claims for costs, loss, damage or injury arising from breach of any of our obligations arising under or in connection with this Agreement, from any cancellation of this Agreement or from any negligence, misrepresentation or other act or omission on our part, or the part of our employees, agents or contractors, shall not exceed:

- (a) the daily charge paid by you to us where your claim relates to mobile patrol services;
- (b) the call out fee for an alarm response where your claim relates to alarm response services; and
- (c) \$500 where your claim relates to static guard services,

in respect of one event (or a series of failures arising from the same event). Where there is more than one event (or series of failures arising) our aggregate maximum liability during the term of this Agreement is limited to \$500.

7.3 Claims: We shall not be liable to you with respect of any matter whatsoever unless notice in writing of any claim is received by us within seven days of the occurrence of the event or default in respect of which your claim arises.

7.4 Indemnity: You shall keep us indemnified at all times against any loss, damage or injury arising from claims made against us by any third party with respect to any theft, loss, damage, destruction, death or injury occurring in or on the Premises arising out of, or in any way in relation to, the provision of, or failure to provide, the Services.

7.5 Third Parties: All provisions of this Agreement which limit or exclude our liability shall be for the benefit of and enforceable by each of our employees, agents and contractors, and the provisions of the Contracts (Privacy) Act 1982 will apply accordingly.

7.6 Insurance: Our liability under this Agreement is limited. Accordingly, you are required to arrange appropriate insurance for any loss, damage or injury that may arise to you, your Premises and your other property as a result of our performance or non-performance under this Agreement.

8. GENERAL

8.1 Guarantee: Each Guarantor unconditionally and irrevocably guarantees to us the due and punctual performance by you of all your obligations under this Agreement (including, but not limited to, the due and punctual payment of all moneys which are now or may in the future be owing or remain unpaid by you). The liability of each Guarantor under this guarantee constitutes a principal obligation of each Guarantor and such liability shall not be relieved, or in any way affected in a manner prejudicial to us, by the granting of time, waiver or forbearance to sue by us or by any other act, omission, matter, circumstance or law whereby each Guarantor as a surety only would, but for the provisions of this clause, have been released from liability.

8.2 Circumstances beyond our control: Notwithstanding any other provision of this Agreement, non-performance by us of our obligations under this Agreement shall be excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or partly, by any act of God, fire, earthquake, storm, flood, landslide, strike, lockout, work stoppage or other labour hindrance, explosion or public mains electrical supply failure, sabotage, riot, civil disturbance, national emergency, terrorism, act of war or any other cause beyond our reasonable control.

8.3 Assignment: We may assign our rights and obligations under this Agreement without your consent. This Agreement is personal to you and you may not directly or indirectly (including on a change of control) assign or otherwise transfer your rights or obligations under this Agreement or any interest under this Agreement to any other person without our consent (which may be withheld at our complete discretion).

8.4 Subcontracting: We may allow a contractor to carry out all or any of our obligations under this Agreement without your consent.

8.5 Entire Agreement: This Agreement contains all the terms of our agreement with you and all other terms, conditions and warranties are expressly excluded.

8.6 Severability: If any part of this Agreement is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable such determination shall not impair the enforceability of the remaining parts of this Agreement which shall remain in full force.

8.7 No waiver: No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by us shall in any way affect, limit or waive our right thereafter to enforce and compel strict compliance with the provisions of this Agreement.

8.8 Confidentiality: You shall at all times keep confidential, treat as privileged, and not directly or indirectly make, or allow any disclosure or use to be made of, the subject matter, or any provision of, this Agreement or any information relating to any provision, or the subject matter, of this Agreement, or any information directly or indirectly obtained from us under or in connection with this Agreement.

8.9 Notices: Where we are required to give you notice we will do that by one or more of the following means:

- (a) personal delivery;
- (b) phone call;
- (c) electronic mail; or
- (d) facsimile transmission,

to the addresses obtained by us unless you notify us otherwise in writing. We are entitled to assume our notices have been received by you on the day it was personally delivered or message left on the number you provide us; it was transmitted to your email or facsimile address.

8.10 Counterparts: This Agreement may be signed in any number of counterparts, including facsimile or scanned copies, all of which shall together constitute one and the same instrument and a binding and enforceable agreement between the parties. Either party may execute this Agreement by signing any such counterpart.