

Welfare First Terms of Use

1. Terms

1.1 This Application is provided to you by First Security Guard Services Limited (“First Security”) for the delivery of the Services provided by First Security to the Corporate Account Holder who in turn supplies you the Services via the Application. You agree to be bound by these Terms of Use (“Terms”) by clicking on the appropriate button below, or by downloading, installing, activating or using the Software or Services. You may only use the Software and the Services strictly in accordance with these Terms and if you do not agree with any part of these Terms (including as amended under clause 2) you must tell us and immediately stop using the Software and Services. All rights not expressly granted to you in these Terms are reserved by First Security or our licensors.

1.2 Unless the context requires otherwise, the defined terms in these Terms shall have the following meanings (and where the context so requires, the singular shall include the plural and vice versa):

“Application” means First Security’s *Welfare First* mobile device application that utilises the Software for the delivery of the Services;

“Corporate Account Holder” means the incorporated or unincorporated person who has entered into a direct contract with First Security for the delivery of the Services who has in turn supplied you with their Unique Code for you to register your mobile device to the Corporate Account Holder’s Management Portal;

“Management Portal” means the management portal First Security has specifically created for the Corporate Account Holder for them to deliver and administer the Services to you upon registration of your mobile device to same;

“Software” means the Application including (without limitation) any software or application installed and/or downloaded on a mobile device, or provided to you pursuant to these Terms, in whatever form, medium or manner provided or subsequently downloaded or installed or used including updates, new release and new versions;

“Services” means First Security’s human resources management software product and all associated services supplied by First Security to the Corporate Account Holder in connection with your use of the Application and includes any service provided to you by First Security pursuant to these Terms and any service that you subscribe for, and any new First Security service or modification to an existing First Security service that First Security provides you or makes available to you from time to time via the Application in relation to the Services. The Services include any service, however the same is made available to you including (without limitation) through mobile devices, the Website, the Software and the Application and any other form of messaging including (without limitation) e-mail, instant messaging, text message, SMS, telephone video and any other means of telecommunication known now or developed later;

“Terms” means these Terms of Use;

“Unique Code” means the unique code that First Security has provided to the Corporate Account Holder for their licence to use the Services which they have in turn disclosed to you to enable you to register your mobile device to the Management Portal; and

“Website” means the First Security website firstsecurity.co.nz.

2. Amendments

2.1 First Security reserves the right to change these Terms from time to time. First Security will provide notice, and any such changes to these Terms shall be effective from, by uploading updated Terms on the most recent version of the Application and/or posting the Website (as the case may be).

It is your responsibility to ensure that you are aware of the then current Terms at all times when you use the Services.

3. The Software and the Services

3.1 The Software facilitates the delivery of the Services. First Security hereby grants to you a personal, limited, worldwide, non-exclusive, revocable, non-transferrable and non-assignable licence to download, install and use the Software on the mobile device for which the licence is supplied, solely in connection with the Services and strictly in accordance with these Terms.

3.2 First Security may release new versions of the Software and/or the Application from time to time, and require you to download and use the latest version. The Software may only be used in accordance with these Terms, and you must not (and must not attempt to) copy, reproduce, modify, adapt, reverse-engineer or decompile the Software in any way.

3.3 Some of the essential features of the Software and the Services require the use of “location-based” services and technology. Your use of the Software and the Services is your acknowledgement that the location tracking features of your mobile device must be enabled at all times when you are using the Software. First Security expressly disclaims any liability for the failure of the Software to perform as intended if such location tracking features have been disabled or fail to properly function on your mobile device. First Security may collect, use and share your precise location data as considered reasonably necessary by First Security for the provision of the Services. First Security (together with its affiliates, partners and licensors) may further use your location data (in a form that does not identify you personally) to provide and improve the Services.

3.4 You are responsible for all associated costs as well as ensuring appropriate access to the internet, wireless access, or any other telecommunications means or services necessary for you to receive, use and interact with the Software and/or the Services. First Security has no responsibility to provide you with anything required for you to successfully interact with and use the Software and/or Services.

4. Your Personal Information

4.1 Your personal information will always be collected and handled in accordance with the Privacy Act 2020 and First Security’s privacy policy (available [here](#)).

4.2 In order for First Security to provide you the Services you must authorise the Corporate Account Holder to share with First Security all your necessary personal information for the provision of the Services. You must ensure relevant true, accurate and current personal information has been provided at all times.

5. Your Content

5.1 By transmitting any message, communication, information or data including photos, location information, emergency alerts or responses (“Content”), you grant First Security (and our licensors) an irrevocable licence to collect, use, store, handle, reproduce, display, perform, and transmit such Content for the purpose of providing the Services and for First Security’s (and our licensors’) product development, research and administrative purposes.

6. Malfunctions and Technical Support

6.1 First Security takes reasonable steps to ensure that the Software will function as intended once it is downloaded or installed by you. However, First Security shall not be liable if at any time the Software malfunctions and/or causes any loss or damage to you, or for any other loss or damage suffered as a result of any partial or total breakdown of, or inability to use, the Software. First Security will try to promptly address (during normal business hours) all technical issues that arise in relation to the Software.

7. Warranties and Liability

7.1 The Software and all content, functionality and features within it are provided “as is” and “as available” and without warranties or representations of any kind either expressed or implied. To the greatest extent permitted by law, First Security disclaims and excludes all warranties, terms and representations that may otherwise be implied, including any warranties as to compatibility, satisfactory quality, and fitness for a particular purpose, or that content, information or functionality of the Software is accurate, error-free or uninterrupted, and/or does not infringe the rights of any third party.

7.2 First Security shall not be liable for any damages, loss or injury arising in connection with these Terms and/or use of, or the inability to use, the Software, Services or any function or services provided by the Software, howsoever caused and whether arising in contract, tort (including negligence) or otherwise, or if your data is disclosed or accessed without authorisation.

7.3 While First Security uses reasonable efforts to ensure that the Software is free from viruses and other malicious content, neither First Security nor any other party involved in producing or delivering the Software assumes any responsibility, nor shall be liable for any damage to, or viruses that may infect, your computer, mobile device or other property on account of access to or use of the Software.

7.4 You indemnify, and will keep indemnified, First Security against all forms of liability, actions, proceedings, demands, costs, charges and expenses which First Security may incur or be subject to or suffer as a result of your use of the Software and/or the Services and functionality provided by the Software and Services.

7.5 To the maximum extent permitted by law, First Security shall not be liable for any of the following types of damages, costs incurred or loss, namely: consequential, exemplary, incidental, indirect, special, punitive or aggravated damages; damages or loss related to personal injury or death, medical or health costs, or mental distress; damages for loss of profits or revenues; loss of information; loss of data; failures to receive or transmit data; any other loss or damage arising out of these Terms or related to the Software and the Services, whether or not such damage or loss was foreseen or unforeseen.

7.6 You are solely responsible for the safe use of the Software and/or Services and for your own personal safety at all times while using the Software and/or the Services and you assume responsibility for anyone you contact using the Software and/or Services. You expressly acknowledge and agree that your use of the Software is at your own personal and sole risk. You further acknowledge that the Software and the Services are not suitable for use in mission critical applications or in hazardous environments requiring fail-safe controls.

7.7 You acknowledge that if you use the Software and/or the Services as a means of notifying your emergency contacts or the emergency services (for example, the Police, the Fire Service or Ambulance Services) to provide you with assistance including (without limitation) on location assistance based on information transmitted through the Software then First Security will not be liable for the actions taken or the costs incurred by you, your emergency contacts or the emergency services as a direct or indirect result of the information transmitted via the Software and/or Services, whether or not any such information transmitted is accurate or not, and you indemnify and hold First Security harmless from any such liability.

7.8 You further acknowledge and agree that nothing in these Terms is intended to imply that use of the Software and/or Services will ensure a response from your emergency contacts or the emergency services. Those parties remain independent and may need to, for example, confirm your location within reasonable accuracy and that an emergency requiring their involvement actually exists before choosing to respond. First Security provides no guarantee and will not be liable in respect of any action or inaction taken by third parties contacted through use of the Software and/or Services. You assume full responsibility for any information transmitted via the Software and Services and for your personal safety at all times while using the Software and/or the Services.

7.9 You acknowledge and agree that First Security has made the Software and/or Services available to you as part of the supply of the Services to the Corporate Account Holder for purposes in trade and that to fullest extent permitted by law the provisions of the Consumer Guarantees Act 1993 and section 9, 12 and 14(1) of the Fair Trading Act 1986 shall not apply to your use of the Software and/or Services.

8. No Illegal or Malicious Use

8.1 You may not use the Software for any illegal or unauthorised purpose, or for any malicious means, or abuse, harass, threaten, intimidate or impersonate any other person.

9. Intellectual Property

9.1 You agree that First Security and our licensors own all of the intellectual property rights existing in the Software and/or Services and that nothing in these Terms shall operate to transfer or assign any such rights to any you.

9.2 Any information, data, or other content which is generated in the course of use of the Software by you ("Data") shall vest in and be owned by the Corporate Account Holder. To the extent such Data contains any personal information clause 4 applies.

10. Security

10.1 First Security takes reasonable measures to keep your information and secure against unauthorised use or access. However, you shall be responsible for maintaining the security of access and use of the Software once the Software has been downloaded or installed.

10.2 First Security shall not be liable for any loss, cost or damage suffered as a result of any unauthorised use of the Software by any third party caused by your failure to comply with these provisions. You must notify First Security immediately if you suspect or become aware of any unauthorised or fraudulent use of the Software.

11. Non-Compliance

11.1 If you do not comply with any aspect of these Terms, First Security may (without prejudice to any other rights or remedies available to it) immediately and without notice to you disable your ability to use the Software, and/or terminate these Terms (including the licence granted within it). Your non-compliance could also result in the termination of First Security's account with the Corporate Account Holder as a result of your non-compliance with these Terms. First Security shall not be liable for any loss or damage suffered by you as a result of First Security exercising its rights under this clause.

12. Assignment

12.1 First Security may assign this agreement without notice to you. You shall not assign this agreement without First Security's prior written consent and any purported assignment without First Security's consent shall have no effect. First Security may perform all its obligations under this agreement and these Terms directly or may have some obligations performed by contractors, subcontractors, agents or affiliates.

13. Acknowledgement in Regards to Apple

13.1 If you have downloaded the Software for use on a mobile device manufactured by Apple you acknowledge that this Agreement is between First Security and you, and not with Apple and that Apple has no responsibility for the Software or the Application. You further acknowledge that Apple has no obligation to you for maintenance or support in regards to the Software, the Application and/or the delivery of the Services.

14. General

14.1 Entire Agreement: These Terms contain all the terms of our agreement with you and all other terms, conditions and warranties are expressly excluded. First Security makes no representation or warranty except as expressly set out in these Terms.

14.2 Severability: If any part of these Terms 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 these Terms which shall remain in full force.

14.3 No waiver: No waiver of any breach, or failure to enforce any provision, of these Terms 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 these Terms.

14.5 Governing law: These Terms will be governed by, and construed in accordance with, the laws of New Zealand. The parties irrevocably submit to the non-exclusive jurisdiction of the Courts of New Zealand with respect to any matter arising out of or in connection with these Terms.