

## TERMS & CONDITIONS

### 1. INTERPRETATION

- 1.1 In this agreement unless the context shall otherwise require:
- (a) The **Company** is defined as Ultimate Security Australia Pty Ltd ABN 72 168 832 013, trading as Ultimate Security Australia.
- (b) The **Customer** is defined as the "customer" or "client" within the agreement
- (c) **Security Service** means security services described under the "Works to be Undertaken" within this agreement.
- (d) **Emergency** means an occurrence at the Premises of which the Company's representative becomes aware during an attendance and which the representative reasonably believes could adversely affect the security of the Premises.
- (e) **Customer Contact** means the person or persons specified as persons to be contacted in case of Emergency in this Agreement.
- (f) **Exceptional Circumstances** means any failure by the Company to provide a service required under this agreement due to strikes, labour disputes, fires, floods, accidents, invasions, riots, mobs, wars, national emergencies; embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, delays to excessive alarm activity or break and entry delays and broken keys.
- (g) **Operational Circumstances** means failure by the Company to provide a service required under this agreement due to inadequate management planning and control on the part of the Company, including circumstances such as the temporary incorrect alignment of customers' requirements to resources, an unsatisfactory understanding of a customer's requirements, inadequate training and unacceptable levels of work performance by employees of the Company.
- 1.2 **Applicable Law** – This agreement shall be subject to the laws of the State in which the Premises are located and the parties submit to the jurisdiction of the Courts of that State.
- 1.3 **Entire Agreement** - The terms of this agreement completely state the rights and obligations of the parties regarding the services provided under this agreement.
- 1.4 **Notice Period** is defined as 7 days, unless the following Agreement type applies:
- (a) Yearly or longer Agreements: Agreements defined as having a year's duration or more – 60 days' notice period applies.
- (b) Month to month Agreements: Agreements defined as having a Month's duration – 30 days' notice period applies.
- (c) Week to Week Agreements: Agreements defined as having a Week's duration – 7 days' notice period applies
- (d) Ad hoc Agreements: Agreements that are for specific work of less than two-week duration are defined as causal – 1 business days' notice period applies.

### 2. PROVISION OF SECURITY SERVICES

- 2.1 The Company at any time may use subcontractors to provide all or part of the services.
- 2.2 The Company will commence the Security Services on the Commencement Date and will provide the Security Services throughout the term of this Agreement.
- 2.3 The Company will use all reasonable efforts to notify a Customer Contact in the event of an Emergency by telephone as soon as practicable. Once a Customer Contact has been informed, the Company's responsibility in respect of the Emergency will have been fulfilled.
- 2.4 The customer has tasked the Company to deliver Security Services as described in the Agreement.
- 2.5 Subject to clauses 10.1, 10.2, 10.3, 10.4, this Agreement shall continue for the period specified within the Agreement (the initial term) and on the expiry of the Initial Term, continue until terminated by the Customer.

### 3. PAYMENT TERMS

- 3.1 The Company may make such enquiries as it considers necessary to determine the credit worthiness of the Customer. The Customer hereby authorizes any other organisation to provide such credit related information to the Company as required. Any Agreement is subject to the Company's absolute discretion to terminate on the grounds of credit worthiness.
- 3.2 The Customer shall pay the Company the fees specified in this Agreement for all permanent work by Direct Debit, occurring 1 month from the commencement of the Security Services.
- 3.3 The Customer shall pay the Company the fees specified in this Agreement for all casual work within 14 days of the date of invoice.
- 3.4 If the Customer does not pay the invoice in accordance with clause 3.3, the Company may with 14 days written notice:
- (a) suspend all work required to be undertaken by the Company under the Agreement; and/or
- (b) Terminate this Agreement as a Customer Breach with all outstanding amounts to remain as a debt due and payable by the Customer to the Company.
- 3.5 The customer may not set off or contract charge any monies owing under the Agreement.
- 3.6 During the Initial Term, the Company shall be entitled to vary the fees specified in this Agreement from time to time where there have been changes to Awards, insurances and statutory rates and requirements, with written notice of a minimum of the Notice Period.
- 3.7 After the Initial Term the Company shall be entitled to vary the fees specified in this agreement with written notice of a minimum of the Notice Period.

### 4. ENTRY TO PREMISES

- 4.1 The Customer authorises the Company and its representatives to enter the Premises nominated within this Agreement, for the purposes of this Agreement.

### 5. CUSTOMER'S OBLIGATIONS AND ACKNOWLEDGEMENTS

- 5.1 The Customer will, except where otherwise provided in this Agreement:
- (a) be liable for any breach of this agreement committed by the Customer,
- (b) pay the Company interest on overdue monies at the rate for the time being published by the Commonwealth Bank of Australia for overdrafts, under \$100,000.00 interest to be calculated on daily balances;
- (c) ensure the Premises will at all times be a safe working environment and without limitation shall not contain asbestos or similar hazards or any infections or building diseases.
- 5.2 The Customer Acknowledges that:
- (a) The Company has relied on information which the client has supplied to set charges and tailor services. The Customer warrants that this information is accurate.
- (b) the Customer has not relied on any representation or warranty except as set out in this Agreement and it is the responsibility of the Company to limit its liability in the manner set out in this Agreement;
- (c) the fees charged by the Company under this Agreement are based solely on the value of services provided and are not related to the value of the customer's property or the property of others located on the Premises;
- (d) the Company is not an insurer of the Premise or other property and risks, that the services provided under this Agreement cannot be guaranteed to prevent all or any unauthorised entry, loss or damage at the Premises and that it is extremely advisable for the Customer to effect and maintain all normal and prudent insurance policies in respect of all usual risks including fire, burglary, theft and consequential loss and damage.

## 6. EXTRA WORK

- 6.1 All services performed and equipment provided by the Company which are not specifically referred to in this Agreement, shall constitute Extra Work.
- 6.2 Where the Customer asks the Company to perform work or provide materials which constitute Extra Work, and the Company agreed to such request, then the provision of this Agreement shall apply to that Extra Work, and the Customer shall pay for the Extra Work at an agreed rate.

the Customer whether for consequential loss or any other loss, whatsoever.

- 8.2 The Customer shall keep the Company indemnified at all times against all loss arising from claims made against the Company, by a third party with respect to any theft, loss, damage, destruction, death or injury occurring in or upon the Premises rising out of or any way relating to the provision or failure to provide the Security Services except in the case of negligence on the part of the Company, its employees or agents.

## 7. HOLDING AND TRANSPORT OF VALUABLES.

- 7.1 The Company and the Customer hereby expressly acknowledge and agree that in respect of any services undertaken by the Company involving the safeguard of keys or valuations of the Customers on the Customers behalf:
- (a) The Customer shall take out adequate insurance to protect the goods against all usual risks while under the Company's care and control;
- (b) the safeguarding of keys by the Company shall cease at termination. The Company shall have the right to destroy keys or return keys at the cost of the Customer.
- 7.2 The services covered by this Agreement expressly exclude the carriage or delivery of any client property, with exception of keys. All risks arising from any carriage of client goods or actions of a non-security nature on behalf of the Customer remains with the Customer.

## 9. WAIVER

- 9.1 The failure of the Company to exercise or any delay in exercising any right, power or privilege available to it under this Agreement will not operate as a waiver or preclude any other or further exercise of any right, power or privilege under this Agreement.

## 10. TERMINATION.

- 10.1 The parties agreed that any breach by the Customer of any provision of this agreement which is not rectified within 7 days of written notification shall entitle the Company to terminate this Agreement.
- 10.2 If at any time, the Company terminates this Agreement in accordance with 10.1, the Customer shall pay the Company an additional early termination fee equivalent of the Notice Period, normal fees, plus reimbursement of the residual of any Security Service specific one off costs.
- 10.3 After the Initial Term, the Customer shall be entitled to terminate this Agreement on written notice of a minimum of the Notice Period.

## 8. LIMITATION OF LIABILITY

- 8.1 It is agreed that the sole obligation of the Company shall be to use its best endeavors to provide the Customer with the Security Services.
- (a) In the event that the Company breaches its obligations under this Agreement, the Company shall:
- (i) In the matter of a service breach, at its election, re-supply the services in dispute or pay the cost of having the services in dispute supplied again.
- (ii) in the matter of a key holding breach, pay the cost of replacement or repair of keys to a maximum value of \$1,000.
- (iii) where the breach relates to a failure or failures to attend the Premises due to Operational Circumstances provide for the automatic refund or credit to the Customer on a monthly basis an amount equivalent to the relevant attendance fee for any attendance to which the Customer was entitled, however such entitlement may be assessed, but did not receive.
- (b) The Company's total liability under this Agreement to the Customer, whether in contract, tort (including negligence) or otherwise is to the extent permitted by law expressed in this clause, and the Company shall have no further or other liability to

## 11. FORCE MAJEURE

- 11.1 Any failure or delay in performance of any obligation under this Agreement by the Company, will not be deemed to be a breach of this Agreement if that failure or delay is due to Exceptional Circumstances.

## 12. GENERAL PROVISIONS.

- 12.1 Notice – Either party may give the other notice under this Agreement by letter or facsimile addressed in the case of a letter at the address last known to the party giving the notice any such notices shall be considered given when the letter or facsimile would have been delivered in the ordinary course of post or transmission.
- 12.2 Assignment – The Customer shall not assign its interests in this Agreement without the prior written consent of the Company. The Company shall be entitled at any time to assign or sub-contract any part of its rights and obligations under this Agreement.
- 12.3 Shared Service – all patrol and alarm response services are shared services. Conflicting shared service requirements between client requirements may delay or preclude attendance. Where a missed call is