



**SERVICE AGREEMENT EXAMPLE FOR USE IN SOUTH AFRICA**

**BETWEEN**

**OMEGA RISK SOLUTIONS (PTY) LIMITED**

(Hereinafter referred to as “the Company”)

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(Hereinafter referred to as “the Client”)

The Company hereby agrees to provide the Client with security services as set out below, subject to the terms and conditions contained herein.

**1 USE OF SERVICE**

- 1.1 The Company will provide the Client with security services at the Client’s premises situated at \_\_\_\_\_.
- 1.2 The duties to be performed by the Company’s security personnel shall be agreed between the parties, recorded in writing and may be varied from time to time in writing. The Company shall not be obliged to perform any security related duties which have not been so recorded in writing.
- 1.3 With effect from the date of commencement of this Agreement the Client shall nominate one or more persons in its employ as the persons responsible for its security and shall furnish the Company with the names and telephone numbers of such persons to enable the Company and its security personnel to communicate with such persons in the event of an emergency.
- 1.4 The Client shall be entitled to give reasonable instructions to security personnel while they are on the premises but the Client shall not be entitled to dismiss such security personnel nor to demand that they leave the premises

until such time as the Company has been given reasonable written notice of the request for such dismissal or demand to leave the premises.

- 1.5 Should the Client be of the opinion that any personnel is failing in, or incapable of, the proper performance of his/her duties to such an extent that the delay in providing such written notice of a request for dismissal or demand to leave the premises could prejudice the proper maintenance of security at the premises and/or safety of personnel, products and equipment at the premises, it may by instruction to the Company demand the immediate removal and replacement of such security personnel from the premises. If the Client exercises its rights in terms of the foregoing proviso, it shall provide the Company with written details of the reasons for its decision.
- 1.6 The manpower coverage to the Client's premises will be as set out in *Annexure(s)* to this Agreement.
- 1.7 The Company warrants that all security personnel to be assigned to perform the duties in terms of this Agreement shall be suitably trained and competent to perform security services.
- 1.8 The Company shall be obliged to ensure that all its security personnel assigned in terms of this Agreement shall be qualified and registered in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001 as amended) at all times during the term of this agreement.
- 1.9 This agreement shall commence on the \_\_\_\_\_ day of \_\_\_\_\_ and shall remain in effect until the expiry of one calendar month's written notice of termination of the said Agreement, which notice may not be given so as to expire earlier than \_\_\_\_\_.
- 1.10 The Client undertakes and shall be obliged to provide a telephone or such other means of communication as may be mutually agreed upon for the use of the security personnel to enable them to report to the Police, Fire Brigade or the Central Office of the Company at any time of the day or night.
- 1.11 The Client shall not be liable for transport costs or any other costs incurred by the Company's security personnel, unless the Client agrees thereto in writing.
- 1.12 The Client hereby warrants that it knows of nothing that will in future in any way complicate or render more difficult the security services to be rendered by the Company, and that should any change to process or circumstances take place in the future that the Company will be advised thereof in writing immediately that the Client is aware of such change.
- 1.13 The Client is reminded of the provisions of the Occupational Health and Safety Act No 85 of 1993, and in particular Section 9 thereof, which states "Every employer shall conduct his undertaking in such a manner as to ensure, as far as it is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not hereby exposed to hazards to their health or safety."

- 1.14 The Client hereby authorises the Company and its security personnel in terms of Section 42(3) of the Criminal Procedure Act, No 51 of 1977, to arrest any person found committing any offence on or in respect of the property or of the premises of the Client or any part thereof. The Client hereby indemnifies the Company, its Directors, Employees and Security Personnel against any claim which may be made against any one or more or all of them, the cause of the action of which claims arose directly out of any search conducted or arrest effected at the direct insistence of the Client pursuant to the provisions of Clause 1.14 provided that the Company, its Directors and Personnel, act at all times within the law while carrying out the direct instructions of the Client.
- 1.15 It is recorded by the parties that the security services provided in terms of this Agreement are complementary to and not an alternative to insurance cover and that it is incumbent upon the Client to adequately insure all its property.

## **2 PRICE AND PAYMENT**

- 2.1 The contract price payable by the Client to the Company for the agreed security services shall be as set out in attached *Annexure(s)* to this Agreement. At renewal date, a revised *Annexure(s)* will be drawn up and once signed by both parties and attached to this Agreement will form part of this Agreement.
- 2.2 The Company reserves the right to increase its service fees from time to time and shall give the Client due written notice of such increase; such increase will come into effect once mutually agreed. Should the client however be unwilling to pay such increased fees, the Client may terminate the agreement on giving the Company 2 (two) calendar month's written notice of its intention to do so, such notice taking effect one month prior to the date of such proposed increase in fees.
- 2.3 If at any time during the currency hereof, the statutory price of wages is increased above such price therefore as exists at the signature date, such increase will be accepted by the Client. Upon request by the Client, the Company shall produce evidence of the statutory increase in wages in the form of a certificate signed by its appointed auditors.
- 2.4 Unless otherwise stipulated in this agreement, all amounts due in terms of this agreement, will become payable on demand.
- 2.5 The Client may at the Companies instance be charged interest on any amount not paid on due date, calculated from the due date of payment, at the prime overdraft rate charged by the Companies bankers from time to time.
- 2.6 The Client will pay the Company all amounts set out in the *Annexure (s)*, monthly in advance. The first payment due in terms of the *Annexure (s)* is payable on the date of taking up service on the Clients premises and all further payments will be made not later than the 7th (seventh) day of each and every successive month in which the service is rendered and on receipt of a valid VAT invoice.

- 2.7 A certificate issued and signed by any Director of the Company whose appointment need not be proved, stating any amount owed by the Client, is prima facie proof of the facts stated therein and may be used, inter alia in support of any application for default or summary judgement or provisional sentence.

### **3 LIABILITY**

#### **3.1 THE PARTIES HERETO AGREE THAT:**

- 3.1.1 The sole function of the security services and security personnel provided by the Company is to minimise the risk of loss or damage by fire, theft, burglary, vandalism, terrorism, riot or civil commotion or similar occurrences;
- 3.1.2 The Company will use its best endeavours to minimise or prevent the loss of damage to the Client's property, including loss of life as a result of occurrences referred to in clause 3.1.1;
- 3.1.3 The Company shall be liable to the Client only for loss or damage (from whatsoever cause arising and whether delictual or contractual) sustained by the Client only if such loss or damage is sustained as a result of the wilful act or wilful omission to act or gross negligence of the Company or its personnel whilst they are acting in the course and scope of their employment, and such liability shall be limited to the amount of any settlement by Insurers in terms of the Company's insurance policy in force. The Company therefore agrees to indemnify the Client against any claims resulting from the Company or its personnel's wilful conduct or wilful omission or negligence.
- 3.1.4 Subject to the provision of Clause 3.1.3 above, the Company's liability shall be restricted to three times the monthly contract price, for any one of the event or series of events arising from one occurrence with a maximum of R 500 000.00 (five hundred thousand rand).
- 3.1.5 No claim will be recognised and/or be valid unless the Company is notified within 4 (four) working days of the occurrence or from when the Client is aware of such occurrence, giving rise to a claim in terms hereof, and the Client delivers to the Companies head office a written notice setting out in detail the cause of action and all facts relevant thereto, to enable the Company to identify the party/parties concerned and to investigate the matter.
- 3.1.6 In no circumstances other than those referred to in 3.1.3 shall the Company be liable to the Client and in no circumstances whatsoever shall the Company be liable for consequential damages or loss or damage (from whatsoever cause arising and whether delictual or contractual) as a result of the negligence of the company or its personnel whilst they are acting in the course and scope of their employment.

- 3.1.7 The Company warrants that during the subsistence of this Agreement, it will maintain in force an insurance policy to cover its liability of 3.1.3 including third party liability resulting from this agreement.
- 3.1.8 It is recorded between the parties that the Client forfeits the right to institute a professional or liability claim against the Company in the event of the Client not complying with any terms of payment and their account therefore falls in arrears, if the cause for the possible claim arose during the period for which payment is in arrears. It is also recorded that in the event of the account being paid up, the right to claim for the period in dispute is not reinstated but permanently forfeited.
- 3.1.9 It is recorded that the Client is aware that the finalisation of a claim depends on the procedures and requirements of the Company's underwriters. The Client therefore accepts that the Company cannot give guarantees as to the time it will take to finalise a claim.
- 3.1.10 It is recorded between the parties that the decision as to whether the Company has been negligent rests with the Company's underwriters.
- 3.2 The Client agrees and undertakes to co-operate fully with and give reasonable assistance to the Company to enable any claim, suit, case or demand which may be threatened, made or brought against the Company arising out of this Agreement by the Client and/or any third party to be investigated.
- 3.3 The Client shall allow the Company reasonable access to the Client's premises for the purposes of investigation of any claim, suit, case or demand made or brought against the Company arising out of this Agreement, by the Client and/or any third party and shall also allow the Company to interview and take statements from the Client's servants, employees and/or agents, as may be reasonably necessary to enable the Company to defend such claim, suit, case or demand. The Company shall not however interview any of the Client's servants, employees and/or agents for the above purposes without first having obtained the written consent of the Client.

#### **4 ENTICEMENT OF STAFF**

- 4.1 The Client agrees and undertakes that during the period of this Agreement and for a period of 12 (twelve) months following the date of expiration of this Agreement, it will not offer employment to or employ any of the Company's security personnel who are or were employed by the Company at any time during the currency of this Agreement.
- 4.2 Should the Client employ a member of the Company's security personnel in breach of Clause 4.1 above, then and in such an event the Client agrees and undertakes to pay to the Company an amount equivalent to 25% of the annual contractual charge for each such employee as due and liquidated damages, which amount the Client acknowledges is a genuine pre-estimate of the damages which will be sustained by the Company.

## **5 PERFORMANCE AND DOMICILIUM CITANDI ET EXECUTANDI**

5.1 The Company hereby chooses domicilium citandi et executandi at

Eastwood Office Park  
Sagewood House, Ground Floor  
Lynnwood Road  
Lynnwood Ridge  
PRETORIA

5.2 The Client hereby chooses domicilium citandi et executandi at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5.3 Any notice to be given by the parties in terms of this Agreement shall be deemed to have been received by the party to whom it is addressed or dispatched by registered post to the addresses referred to in Clause 5.1 and 5.2 above, and shall be deemed to have been received 7 (seven) days after posting.

5.4 The Client acknowledges that no representations, warranties or guarantees of whatsoever nature other than those contained in this Agreement have been made to it by or on behalf of the Company to induce the Client to enter into this Agreement.

5.5 In the event that either party commits any material breach of any terms and conditions of this Agreement or should the Client fail to pay the Company any of the monies payable in terms of this Agreement, or in the event of either party being placed in liquidation or under judicial management, whether provisional or final, voluntary or compulsory, or in the event of a judgement of any competent Court being given against either party which judgement remains unsatisfied for a period of 14 (fourteen) days, then and in such an event and without prejudice to any of its rights the Company shall be entitled to cancel this Agreement forthwith.

5.6 In the event of non-compliance by either party with any of the terms and conditions of this Agreement, the other party may give written notice to the defaulting party to rectify and/or remedy such non-compliance within 14 (fourteen) days of receipt of such written notice and should the defaulting party fail to rectify and/or remedy such non-compliance within 14 (fourteen) days of such written notice, the other party shall be entitled to cancel this Agreement by summarily giving 30 (thirty) days written notice of cancellation.

**6 GENERAL**

- 6.1 No alteration, variation, addition or agreed cancellation of this agreement shall be of any force or effect unless reduced to writing as an addendum to this Agreement and signed by the parties or their duly authorized signatories.
- 6.2 No failure or delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the parties would otherwise have.
- 6.3 This document and its *Appendices / Annexures* duly signed by the parties contain the entire agreement between the parties and no party shall be bound by any undertaking, representation or warranty not recorded herein or added hereto as provided herein.
- 6.4 No indulgence, leniency or extension of time which any party (“the grantor”) may grant or show to the other/s shall in any way prejudice the grantor or preclude the grantor from exercising any of its rights in the future.
- 6.5 The headings appearing in this agreement have been used for reference purposes only and shall not affect the interpretation of this agreement.
- 6.6 Any reference in this agreement to the singular includes the plural and *vice versa*. Any reference in this agreement to natural persons includes legal persons and references to any gender include references to the other genders and *vice versa*.
- 6.7 If any clause or term of this agreement should be invalid, unenforceable or illegal, then the remaining terms and provisions of this agreement shall be deemed to be severable there from and shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this agreement.
- 6.8 Each party shall pay its own costs relating to the preparation and settlement of this agreement.
- 6.9 This agreement shall only become effective and legally binding on the parties once it has been signed by all the parties.

**THUS DONE AND SIGNED AT \_\_\_\_\_ ON**

**THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 200 \_\_\_\_.**

**FOR THE CLIENT \_\_\_\_\_**

**AS WITNESSES**

1. \_\_\_\_\_

1. \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OR OFFICIAL WHO WARRANTS  
THAT HE IS DULY AUTHORISED HERETO

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**THUS DONE AND SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY**

**OF \_\_\_\_\_ 200 \_\_.**

**FOR THE COMPANY \_\_\_\_\_**

**AS WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OR OFFICIAL WHO WARRANTS  
THAT HE IS DULY AUTHORISED HERETO



ANNEXURE "A"

**OMEGA RISK SOLUTIONS (PTY) LIMITED**

("the Company")

hereby agrees to provide

("the Client")

**MANPOWER**

The Company will provide the following manpower coverage to the Client :-

DAY SHIFT: MONDAY TO FRIDAY (06h00 - 18h00)

NIGHT SHIFT: MONDAY TO FRIDAY (18h00 - 06h00)  
(WEEKENDS & PUBLIC HOLIDAYS - 24 HOURS)

**CORE TEAM AND COSTS**

**CONTRACT PRICE**

1. It is hereby recorded that, as of the \_\_\_\_\_ day of \_\_\_\_\_, the contract price payable by the Client to the Company for the aforesaid services shall be R\_\_\_\_\_ per month, which shall be payable by the 7th day of each month in which the service is rendered. This price will remain fixed until the \_\_\_\_\_ day of \_\_\_\_\_ and is hereafter renewable on an annual basis as at price to be negotiated between the parties and accepted in writing.
2. All payments by the Client to the Company shall be without deduction and shall not be deferred, withheld or refused on account of any claim, counter claim or setoff.
3. No provision has been made for any local, regional or national taxes other than those in force and at rates applied at the date of drawing this contract. Any new or increased levies, taxes or surcharges imposed upon the Company or costs which the Company may incur in providing statutorily imposed health and/or hospital benefits will be added to the changes set out in this *Annexure* from the date such amounts are levied by the authorities.
4. Casual guarding may be provided at a rate of R\_\_\_\_\_ per twelve hour shift or part thereof.

THUS DONE AND SIGNED AT \_\_\_\_\_ ON

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 200 \_\_\_\_.

FOR THE CLIENT \_\_\_\_\_

**AS WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OR OFFICIAL WHO WARRANTS  
THAT HE IS DULY AUTHORISED HERETO

\_\_\_\_\_  
\_\_\_\_\_  
THUS DONE AND SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY

OF \_\_\_\_\_ 200 \_\_\_\_.

FOR THE COMPANY \_\_\_\_\_

**AS WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OR OFFICIAL WHO WARRANTS  
THAT HE IS DULY AUTHORISED HERETO