

# HIRE AGREEMENT



## NOTE TO CUSTOMER

You should read these Hire Contract terms very carefully. They contain terms and conditions which may impact on you, including that;

- (a) the liability of Wilson Security to its Customers is excluded in some circumstances; and
- (b) Customers may be liable for damage to goods that are hired by them; and
- (c) Wilson Security Privacy Policy permits Wilson Security in some circumstances and subject to compliance with the Australian Privacy Principles to provide data about a Customer, or data provided by a Customer, to a third party in a form that may enable the third party to identify the Customer.

These Hire Contract Conditions apply to the exclusion of any other conditions currently in place with or proposed by the Customer, unless otherwise agreed by Wilson Security and the Customer in writing. Wilson Security agrees to hire Electronic Security Equipment to the Customer on terms set out in this document. If the Customer wishes to hire said Equipment, Wilson Security will issue to the Customer an invoice including a hire schedule, setting out the terms of the hire of that Equipment. Each hire schedule is not a separate contract but forms a part of this hire agreement between Wilson Security and the Customer, together with any credit application, guarantee and indemnity or other contractual documents. The Customer agrees to receive hire schedules and all associated documentation by electronic means, or by printed or other form where electronic means are not available. The Customer must check the Hire Schedule on receipt and unless the Customer notifies Wilson Security before delivery of the Equipment that it disagrees with anything in the Hire Schedule, the terms of the Hire Schedule are accepted by the Customer. Wilson Security may in its absolute discretion decline to hire Equipment to the Customer at any time if it has reasonable cause to do so.

**Amendment:** These Hire Contract Conditions may be changed by Wilson Security from time to time by Wilson Security giving notice of the amendment to the Customer. Notice is deemed given when Wilson Security does any of the following:

- (a) sends notice of the amendment to the Customer at any address (including an email address) supplied by the Customer or
- (a) publishes the amended terms on its website.

Changes to these Hire Contract Conditions will only apply to Hire Schedules entered into after the change has been notified to the Customer by one of the methods mentioned above.

## 1. INTERPRETATION OF WORDS IN THIS CONTRACT;

**COMMENCEMENT** The date when the Customer takes delivery of the Equipment.

**EQUIPMENT** Means any kind of equipment detailed in the hire schedule and can include guarding, patrols, fixed installation, mobile or temporary solutions, or any combination of the above, designed to deliver security outcomes to the site.

**CUSTOMER** refers to the person, firm, organisation, partnership, corporation or other entity (including trust) hiring the Equipment from Wilson Security Hire as identified in the Credit Application or Hire Schedule.

**HIRE CHARGE** The amounts shown on the Hire Schedule payable by the Customer to hire the Equipment.

**HIRE PERIOD** Means from Commencement until the end of the period shown on the Hire Schedule. The Hire Period may only be extended for one or more definite periods and in each case this can only be done if the Customer requests it and if Wilson Security agrees. Wilson Security may issue an amended invoice and Hire Schedule for any extension of the Hire Period.

**HIRE SCHEDULE** Means a document in such form as Wilson Security shall require, setting out the terms of the hire of Equipment, including the particulars of the Equipment and the Hire

Period and such other information as Wilson Security may decide to include in consultation with the Customer.

**WILSON SECURITY** The company listed on the Hire Schedule.

**KILOMETRE CHARGE** The amount payable for the kilometres that a Motor Vehicle and driver has had to travel outside of Metro area to deliver and pick up the hired Equipment.

**REMOTE AREA** Any location which is more the 50 kilometres from the Wilson Security branch from where the Equipment is hired.

## 2. WILSON SECURITY OBLIGATIONS

**Wilson Security will:**

- 2.1 Deliver or install the equipment to the site once all documentation and hire requirements have been met
- 2.2 Deliver the Equipment and/ or commence the services within 48 hours of the requested start date
- 2.3 Allow the Customer to use the Equipment for the Hire Period;
- 2.4 Provide the Equipment to the Customer clean and in good working order;
- 2.5 Collect the Equipment within five days of being requested to do so by the Customer and issue any final invoicing within 30 days of the end of the Hire Period.

### 3. OBLIGATIONS OF THE CUSTOMER

#### The Customer must:

- 3.1 Provide clear access to the Equipment at the end of the Hire Period ;
- 3.2 Return the Equipment to Wilson Security clean and in good repair;
- 3.3 Satisfy itself at Commencement that the Equipment is suitable for its purposes;
- 3.4 Operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer s instructions whether supplied by Wilson Security or posted on the Equipment;

**NOTE TO CUSTOMER: You MUST advise Wilson Security if you require any further instruction on the operation and safe use of the Equipment or if the Equipment is to be relocated during the Hire Period.**

- 3.5 Indemnify Wilson Security for all injury and/or damage to the extent caused or contributed to by the Customer to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment;
- 3.6 Ensure that any person taking delivery of Equipment on behalf of the Customer is authorised by the Customer to do so and the Customer will not allege that any such person is not so authorised;
- 3.7 Ensure that all persons relocating the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed;
- 3.8 Conduct a thorough hazard and risk assessment before using or moving the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation;
- 3.9 Safely secure all items loaded in or on the Equipment or in or on the Customer s vehicle, and indemnify Wilson Security in respect of any injury and/or damage caused by items falling from the Equipment or from any trailer operated by or on behalf of the Customer;
- 3.10 Operate the Equipment with an adequate motor vehicle and/or power source;
- 3.11 Report and provide full details to Wilson Security of any accident or damage to the Equipment within two business days of the accident or damage occurring;
- 3.12 Sign any documentation requested by Wilson Security at such intervals as reasonably stipulated by Wilson Security, to confirm the Customer s acceptance of these Hire Contract Conditions.

#### The Customer must NOT;

- 3.13 Tamper with, damage or repair the Equipment;
- 3.14 Lose or part with possession of the Equipment;
- 3.15 Rely upon any representation relating to the Equipment or its operation other than those contained in this Contract;
- 3.16 Attempt to access any part of the Equipment without the express consent of Wilson Security;
- 3.17 Use, store or carry any illegal, prohibited or dangerous substance in or on the Equipment;
- 3.18 Exceed the recommended or legal speed limit for the Equipment of 80 KPH

### 4 PAYMENTS BY THE CUSTOMER TO WILSON SECURITY

- 4.1 On or before Commencement (or as otherwise specifically agreed with Wilson Security and detailed in the Hire Schedule), the Customer will pay the Hire Charge.
- 4.2 Immediately on request by Wilson Security, the Customer will pay:
  - (a) the new list price of any Equipment which is for whatever reason not returned to Wilson Security

**NOTE TO CUSTOMER: Subject only to any express provision of this Contract to the contrary, the Customer is responsible for loss or theft of the Equipment.**

- (b) all costs incurred in cleaning the Equipment;
  - (c) the full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Contract;
  - (d) stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Customer s use of the Equipment;
  - (e) all costs incurred by Wilson Security in delivering and recovering possession of the Equipment;
  - (f) the Kilometre Charge for deliveries and pick ups in a Regional Area and any additional Hire Charges as detailed in this Contract;
  - (g) any reasonable expenses and legal costs (including commission payable to a commercial agent) incurred by Wilson Security in enforcing this Contract due to the Customers default; and
  - (h) if any damage and/or theft waiver applies, the amount for which the Customer is liable as set out in this Contract..
- 4.3 Without limiting the ability of Wilson Security to recover all amounts owing to it, the Customer authorises Wilson Security to charge any amounts owing by the Customer to any credit card or account details of which are provided to Wilson Security.
  - 4.4 Wilson Security may tokenise the Customers Credit Card or Account details to facilitate credit card or online payments.
  - 4.5 Wilson Security reserves the right to set-off any monies to it against any other accounts or payments the Customer has with Wilson Security

### 5 PPS LAW

- 5.1 This clause applies to the extent that this Contract provides for a security interest for the purposes of the Personal Property Securities Act 2009 (Cth) ( PPS Law ). References to PPS Law in this agreement include references to amended, replacement and successor provisions or legislation.
- 5.2 Wilson Security may register its security interest. The Customer must do anything (such as obtaining consents and signing documents) which Wilson Security requires for the purposes of
  - (a) ensuring that Wilson Security security interest is enforceable, perfected and otherwise effective under the PPS Law;
  - (b) enabling Wilson Security to gain first priority (or any other priority agreed to by Wilson Security in writing) for its security interest; and
  - (c) enabling Wilson Security to exercise rights in connection with the security interest.
- 5.3 The rights of Wilson Security under this document are in addition to and not in substitution for Wilson Security rights under other law (including the PPS Law) and Wilson Security may choose whether to exercise rights under this document, and/or under such other law, as it sees fit. To avoid any doubt, Wilson Security's security interest will attach to proceeds.
- 5.4 To the extent that Chapter 4 of PPSA applies to any security interest under this agreement, the following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are contracted out of this agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires Wilson Security to give a notice to the Customer); section 96 (retention of accession); section 121(4) (notice to grantor); section 125 (obligations to dispose of or retain collateral); section 130 (notice of disposal to the extent it requires Wilson Security to give a notice to the Customer); section 129(2) and 129(3); section 132(3)(d) (contents of statement of account



after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (re-instatement of security agreement).

- 5.5 The following provisions of the PPS Law: section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral) confer rights on Wilson Security. Customer agrees that in addition to those rights, Wilson Security shall, if there is default by Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under those sections but also, as additional and independent rights, under this document and the Customer agrees that Wilson Security may do so in any manner it sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.
- 5.6 The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPS Law.
- 5.7 Wilson Security and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPS Law continues to apply. The agreement in this sub-clause is made solely for the purpose of allowing to Wilson Security the benefit of section 275 (6)(a) and Wilson Security shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this sub-clause.
- 5.8 Customer must not dispose or purport to dispose of, or create or purport to create or permit to be created any security interest (as defined in PPS Law) in the Equipment other than with the express written consent of Wilson Security.
- 5.9 Customer must not lease, hire, bail or give possession ( sub-hire ) of the Equipment to anyone else unless Wilson Security (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to Wilson Security and must be expressed to be subject to the rights of Wilson Security under this agreement. Customer may not vary a sub-hire without the prior written consent of Wilson Security (which may be withheld in its absolute discretion).
- 5.10 Customer must ensure that Wilson Security is provided at all times with up-to-date information about the sub-hire including the identity of the sub-hirer, the terms of and state of accounts and payment under the sub-hire and the location and condition of the Equipment.
- 5.11 Customer must take all steps including registration under PPS Law as may be required to:
- (a) ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;
  - (b) enabling the Customer to gain (subject always to the rights of Wilson Security) first priority (or any other priority agreed to by Wilson Security in writing) for the security interest; and
  - (c) enabling Wilson Security and the Customer to exercise their respective rights in connection with the security interest.

## **6 DAMAGE WAIVER**

- 6.1 Damage Waiver is not insurance, but is an agreement by Wilson Security that the Customer's liability for damage to the Equipment can be limited in some circumstances only, to an amount called the Damage Waiver Excess.
- 6.2 Damage Waiver applies to all hires, subject to the conditions below, for no additional fee. The Damage Waiver Excess is the actual recovery and repair cost of the Equipment, or 20% of the current replacement cost of the Equipment as reasonably determined by Wilson Security using suppliers list prices, whichever is the lesser amount.

## **DAMAGE WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE CUSTOMER'S LIABILITY IN THE FOLLOWING CIRCUMSTANCES;**

- (a) where the Equipment is lost or stolen;
- (b) where the equipment has been wilfully damaged at any time during the Hire Period;
- (c) where the damage is caused by a collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object whatsoever due to insufficient clearance;
- (d) where the damage is caused while the Equipment is being driven or towed on any road that is unsealed or is not a public road;
- (e) where the damage is caused by unauthorised persons accessing, maintaining or changing the Equipment.

## **THEFT WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE CUSTOMER'S LIABILITY FOR THEFT in the following circumstances;**

- (f) where the Customer has failed to keep the Equipment in a securely locked enclosed area
- (g) where the Customer has failed to submit to Wilson Security a Police Report on the theft within seven days of the theft allegedly occurring.

In the event of Theft Waiver applying, hire fees will be charged to the Customer until the Police Report is provided to Wilson Security.

- 6.3 Damage Waiver or Theft Waiver will NOT apply where Wilson Security determines that any of the applicable circumstances in clauses 6.2(b)-(e) have occurred, unless the Customer is able to establish otherwise to the reasonable satisfaction of Wilson Security.

## **7 EXCLUSION OF WARRANTIES AND LIABILITIES.**

- 7.1 Where the Australian Consumer Law applies, the Customer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded.
- 7.2 Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, Wilson Security liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.
- 7.3 To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply, Wilson Security makes no representations and gives no warranties other than those set out in these Hire Contract Conditions, and will not be liable to the Customer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

## **8 REMOTE HIRE**

- 8.1 Where the Equipment is at any time hired by the Customer to be located in the Remote Area, the following clauses will also apply, in addition to the obligation of the Customer under Clause 3 and elsewhere in these Hire Contract Conditions;
- (a) The Customer will pay an additional charge for any delivery, servicing and repair of the Equipment, and for any other attendance at the Remote Area by Wilson Security ( Remote Area Charges ). The Remote Area Charges will be calculated on a per kilometre rate travelled by Wilson Security staff to and from the Remote Area, plus labour costs per staff member per hour (including travelling times) at scheduled rates, plus direct travelling cost including all airfares and accommodation charges incurred by Wilson Security and its staff in connection with travel to and from the Remote Area;
  - (b) Multiple items of Equipment hire by a Customer on the one site will only be charged for one call out fee;
  - (c) The Customer is responsible at its cost for daily maintenance and care of all Multiple items of Equipment hire



by a Customer on the one site will only be fittings and lubrication of all grease points.

(d) The Customer is responsible for ensuring that any minimum operating requirements of the Equipment including 4G coverage and power requirements are met. Where these requirements aren't met and the equipment is not able to be used, the Customer may still be liable for any delivery and pick up costs of the equipment

## **9 BREACH OF HIRE CONTRACT BY CUSTOMER**

If the Customer breaches any significant provision of this Contract and does not remedy the breach within a reasonable period of time (having regard to the breach), or becomes bankrupt, insolvent or ceases business then:

9.1 Wilson Security shall be entitled to:

- (a) terminate this Contract; and/or
- (b) sue for recovery of all monies owing by the Customer; and/or
- (c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so), and any Damage and/or Theft Waiver referred to in clause 6 is immediately invalidated.

9.2 The Customer indemnifies Wilson Security in respect of any damages, costs or loss, to the extent caused or contributed to by the customer resulting from a breach by the Customer of any provision of this Contract.

## **10 DISPUTES**

- 10.1 The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to Wilson Security in writing within 7 days of the Hire Contract date. In the event that no communication is received from the Customer within that 7 day period, the Hire Charges are deemed to be accepted by the Customer.
- 10.2 If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to Wilson Security), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

## **11 EQUIPMENT DATA**

Wilson Security Equipment may contain on-board devices (each a GPS Device) which enable the Equipment to be connected to the internet and to send commands to and receive certain information from the Equipment, including geolocation data from a global positioning system and other data including but not limited to speed, battery voltage and ignition status of such Equipment.

By hiring any Equipment from Wilson Security, the Customer expressly consents to Wilson Security use of the GPS Device on such Equipment during the Hire Period and to Wilson Security collecting, using and retaining information from the GPS Device in accordance with our Privacy Policy, and that Wilson Security is the owner of that data subject to your rights as set out in our Privacy Policy.

## **12 PRIVACY**

Wilson Security will comply with the Australian Privacy Principles in all dealings with Customers. A copy of the Wilson Security Privacy Statement is available upon request or by visiting [www.WilsonSecurity.com.au](http://www.WilsonSecurity.com.au)

## **13 GOVERNING LAW**

13.1 This Hire Contract is a payment claim under the Building and Construction Industry Security of Payment Act 1999 NSW, the Building and Construction Industry Security of Payment Act 2002 VIC, the Building and Construction Industry Payments Act 2004 QLD, the Building and Construction Industry Security of Payment Act 2009 SA, the Construction Contracts Act 2004 WA, the Building and Construction Industry (Security of Payment) Act 2009 ACT, the Building and Construction Industry Security of Payment Act 2009 TAS, and/or the Construction Contracts (Security of Payments) Act 2009 NT.

13.2 Except where Wilson Security in its discretion takes action against the Customer under any of the Building and Construction Industry legislation referred to in this clause, Wilson Security and the Customer agree that this Contract is governed by the law of the state of New South Wales, and the parties submit to the jurisdiction of the courts of that State.

## **14 CONTACTLESS COLLECTION AND RETURN**

14.1 Wilson Security may in its discretion, and subject to satisfactory identification of the Customer and its authorised representatives, issue a Personal Identification Number ( PIN ) to an individual authorised representative of the Customer to allow self-collection and self-return of the Equipment by the Customer from and to a Wilson Security branch ( the Branch ). The PIN may be withdrawn by Wilson Security in its discretion at any time. The Customer must comply with all requirements stipulated from time to time by Wilson Security for entry to the Branch using the PIN, including that the Customer must:

- (a) follow all directions given by Wilson Security as to the procedure for obtaining access to the Branch;
- (b) enter the Branch at its own risk, and any injuries or death or damage to equipment or property that may occur while loading or unloading Equipment are the responsibility of the Customer;
- (c) ensure that the main gate of the Branch is closed and locked when leaving the Branch, failing which the Customer will be liable for any theft or attempted theft of equipment from the Branch, or for any damage to equipment at the Branch, or damage to the Branch itself;
- (d) consent to being filmed or photographed by CCTV while at and entering and leaving the Branch;
- (e) Before it enters the Branch, ensure that it has requested and obtained from Wilson Security any assistance it may require as to the operation and safe use of the Equipment;
- (f) at all times keep confidential the PIN, and ensure that the PIN is only used by the person to whom it is issued and that no other persons are given access to the Branch at any time; and
- (g) only take into their possession, Equipment detailed on an active Hire Schedule provided to the Customer by Wilson Security.

