



A DIVISION OF Century Fence Company

**Terms and Conditions for Security Services - Minnesota**  
***(Upon acceptance of proposal become binding as part of the contract)***

1. **ENGAGEMENT.** Customer agrees to engage Century Security Solutions, a division of Century Fence Company ("CSS") to provide one or more of the following services: Service Call, After Hours Service Call, and Sundays and Holidays Service Call services as described in the attached.
2. **TERM & TERMINATION:** (a) This Agreement will commence upon the Effective Date and continue until terminated by either party. Either party may terminate this Agreement at any time, without cause or penalty, upon 1 day's prior written notice (24 hours) to the other party. For services cancelled less than 24 hours prior to intended service start time, the Client may be liable to pay service fees including but not limited to a penalty amount equivalent to six (6) billable hours. For services cancelled less than eight( 8 ) hours prior to the intended service start time, Client may be liable to pay a penalty equivalent to eight 8) billable hours, but no less than six (6) billable hours, or the entire forfeiture of any deposits or down payments if applicable and collected, whichever is more. Either party may also terminate this Agreement for good cause upon 30 days' prior written notice to the other party. "Good cause" for CSS will include, without limitation, the following: (i) any material or persistent minor breach by Client of this Agreement; (ii) cancellation of or material change to any of CSS's insurance coverage relevant to this Agreement; (iii) a change in applicable laws or regulations that has a material effect on, or causes a material change to, the Services; or (iv) any act or omission of Client which, in CSS's reasonable opinion, brings or may bring CSS's business or reputation into disrepute. Client will be responsible for payment for all Services rendered through the termination date. (b) If Services include Remote Guarding, instead of Client's rights of termination in Section 2(a), Client may only terminate this Agreement upon 60 days' prior written notice to CSS. CSS's rights of termination in Section 2(a) remain unchanged. (c) If Client terminates this Agreement for any reason, Client will pay for any unamortized costs related to any equipment used in connection with Services.
3. **SCOPE OF SERVICES; PERSONNEL:** (a) CSS will only provide Services specified in this Agreement or the Scope of Work, which is incorporated into this Agreement by reference. CSS will not be obligated to perform, and will bear no responsibility for, any Services or duties performed that are not expressly specified in this Agreement. CSS does not accept overall responsibility for security at the Site. (b) CSS may use contractors or vendors to provide some or all of the Services. CSS (or a contractor or vendor of CSS) may provide or install equipment in connection with the Services, and Client consents to any installation. All such equipment is for CSS's use and will always be CSS property. CSS is not selling or leasing any of the equipment to Client, and CSS provides no warranty to Client regarding the equipment. *Any implied warranties of merchantability and fitness for a particular purpose that may apply to the equipment are excluded.* CSS will be provided with reasonable time and access to remove all its equipment upon termination of this Agreement. (c) CSS is an independent contractor, and nothing in this Agreement creates a partnership or relationship of principal/agent or employer/employee. Personnel providing the Services are employees of CSS or its contractors (CSS may use contractors to provide some or all of the Services). CSS may change such personnel at any time. Client may reasonably request changes in such personnel for lawful reasons. If CSS makes Client's requested changes, Client will be solely responsible for, and will defend and indemnify CSS against, any Loss arising from such changes.
4. **PAYMENT:** (a) The terms of payment are defined above in the Quote/Estimate and is payable the net number of days specified on each invoice, without any setoff, to the remittance address on the invoice.



A DIVISION OF Century Fence Company

Client's failure to pay any amount when due will be a material breach by Client. A late charge of 1.5% per month will be added to balances not paid within 30 days of the date of the invoice. Client must notify CSS in writing of any dispute regarding the amount of an invoice within 30 days from the invoice date; otherwise all disputes will be deemed waived. Client will bear all costs associated with CSS receiving payments due for Services rendered under this Agreement. If CSS must institute suit or collection services to collect amounts owed to CSS, Client will pay CSS's attorneys' fees and other costs of suit or collection. Unless otherwise agreed, Client will deposit 50% of the invoice amount in advance. (b) In the event of payment delay, CSS may suspend the performance of Services upon 10 days' prior written notice. Suspension will not release Client from any of its obligations under this Agreement. In case of non-payment based on Client liquidity problems, CSS may condition continued performance on immediate cash payment for Services rendered (invoiced or not) or to be rendered. (c) CSS may raise the Service Fee upon 30 days' prior written notice to account for any increases in (i) health care, benefit, or insurance costs, (ii) labor or fuel costs, (iii) costs arising from changes to laws, regulations, or insurance premiums, (iv) SUI or similar taxes, (v) contractor's rates, or (vi) any other taxes, fees, costs or charges related to the Services.

- 5. LIABILITY LIMITATION; INDEMNIFICATION:** (a) The Service Fee is based upon the value of Services provided, not the value of the interests or property protected. Accordingly, CSS makes no warranty or representation, express or implied, that the Services will produce a result or prevent any loss or damage. *Client agrees that the limitations of liability and Client's defense/indemnity obligations in Sections 5(c)-5(f) apply regardless of whether the Loss is alleged to arise, directly or indirectly, in whole or in part, from the negligence (active or passive) or misconduct of CSS, its employees or agents, including that related to the hiring, training, supervision or retention of CSS's employees or agents, and Sections 5(c) – 5(f) apply in favor of CSS's contractors and vendors.* (b) CSS will defend and indemnify Client against any Loss arising from the Services only to the extent the Loss is caused by the negligence of CSS, its employees or agents while acting within the scope of their duties and authority. Client will defend and indemnify CSS against any Loss in connection with this Agreement only to the extent the Loss is caused by the negligence of Client, its employees or agents. (c) Notwithstanding anything to the contrary in this Agreement, in no event will CSS or its insurers be liable for any (i) environmental damages, (ii) punitive, special, exemplary, liquidated, indirect, or consequential damages (including, without limitation, loss of profits or business), (iii) violent or armed action, or hi-jacking, or (iv) damages arising from or related to any circumstance beyond CSS's reasonable control (including, without limitation, any act of God or war, or any failure on the part of CSS's contractors or vendors). (d) Notwithstanding anything to the contrary in this Agreement, in no event will either party or its insurers be liable to the other party for any Loss arising from or related to an act of terrorism. The parties intend for this waiver to "flow down" to their respective contractors. (e) Notwithstanding anything to the contrary in this Agreement, if CSS employees operate any vehicle other than one supplied by CSS, Client will maintain insurance for the vehicle and the insurance will be primary, and Client will defend and indemnify CSS against any Loss arising out of CSS's use of the vehicle. (f) Notwithstanding anything to the contrary in this Agreement, in no event will CSS be responsible for any theft or other loss of Client's property not directly attributable to proven security officer thefts. In the event of allegation of security officer thefts, Client waives all right of recovery unless CSS is notified of the allegations within 10 days, Client fully cooperates with CSS in the investigation of the facts, Client presses formal charges, and a conviction is obtained; however, if all the foregoing conditions are satisfied, all applicable limitations of liability in this Agreement still apply. (g) Written notice of any Loss arising out of or relating to this Agreement must be received by CSS within 14 days following the date of the occurrence giving rise to such Loss. No action to recover any Loss will be instituted or maintained against CSS unless



A DIVISION OF Century Fence Company

such notice is received by CSS. (h) The Services are solely for the benefit of Client; neither this Agreement nor any Services confer any rights on any other party as a third-party beneficiary.

6. **INSURANCE:** Client will maintain insurance to protect Client against loss or damage to its premises, business and property, and others' property on Client's premises. Client (on behalf of itself and its insurers) waives all rights of subrogation against CSS, its contractors and vendors, and their respective employees, agents and insurers. If CSS provides any insurance coverage (additional insured or otherwise) for Client or any others, such insurance coverage will only cover Client and the others for liability specifically assumed by CSS in this Agreement. As security for Client's defense and indemnity obligations in this Agreement, Client will name CSS as an additional insured under Client's relevant insurance policies, and Client will provide CSS with a certificate of insurance evidencing such coverage upon request.
7. **FORCE MAJEURE:** The following circumstances will be considered as grounds for relief if they delay or impede the performance of this Agreement: any circumstance beyond the reasonable control of a party such as fire, war, mobilization or military call up of a comparable scope, requisition, seizure, currency restrictions, insurrection and civil commotion, hi-jacking or an act of terrorism, shortage of transport, general shortage of materials or personnel, industrial disputes and defects or delays in deliveries by contractors caused by any such circumstance as referred to in this Section. The party desiring relief under this Section will inform the other party by written notice without delay on the occurrence and on the cessation of such circumstance. If grounds for relief prevent Client from fulfilling its obligations, Client will reimburse CSS for costs incurred in securing and protecting the Site. Client will also reimburse CSS for costs incurred for personnel, contractors and equipment which, with the consent of Client, are held in readiness to resume the Services.
8. **CLIENT'S COMMITMENT:** Client will at all times cooperate with CSS to allow CSS to provide the Services under the best possible conditions, and failure to provide such cooperation will be a material breach by Client. Such cooperation includes, without limitation, Client providing (i) a safe, healthy working environment for CSS personnel in accordance with applicable laws and regulations, (ii) all relevant information, access and assistance that CSS reasonably requires to perform the Services without interruption, including, without limitation, suitable office space and utilities, and (iii) prompt notice of anything that may affect CSS's safety, risk or obligations under this Agreement or which may lead to an increase in CSS's costs of providing the Services.
9. **SEVERABILITY:** If any provision of this Agreement is held to be unenforceable, it will be modified to be enforceable to the maximum extent permitted under applicable law and all other terms will remain in full force. If the unenforceable provision cannot be so modified, it will be excluded from this Agreement, and all other terms of this Agreement will remain in full force.
10. **PRECEDENCE:** In the event that the different parts of this Agreement are conflicting, the written documents forming part of this Agreement will prevail in the following order: (i) this Agreement; (ii) the Scope of Work; and (iii) any other written documentation attached hereto.
11. **NOTICES:** All official notices will be in writing and made by overnight mail or certified mail, addressed to the other party at its address set forth in this Agreement or at such other address as the other party may have designated in writing.



A DIVISION OF Century Fence Company

12. **ASSIGNMENT:** Neither party will assign this Agreement without the other party's prior written consent, which will not be unreasonably withheld. However, upon 30 days' prior written notice to the other party, either party may assign this Agreement at any time to any of its affiliates, subsidiaries or successors.
13. **LAW & JURISDICTION:** (a) This Agreement will be governed by the law of the State in which the applicable Services are performed. The parties hereby submit to the jurisdiction of the courts of such State. All terms in this Agreement are only intended to apply to the maximum extent permitted by applicable Minnesota law.
14. **DEFINITIONS:** "Site" means all premises where Services are performed under this Agreement; "Remote Guarding" means guarding and related services conducted from a remote location using electronic security equipment, including, without limitation, video and voice communication equipment, "Guard" means any duly appointed employee, affiliate, or individual of subcontractor whose responsibility is to perform the duties of watching and protecting the assets of the Contractor, under this agreement, post orders, and other attachments, in accordance to local laws or definitions. "Loss" means all suits, claims, losses, damages and expenses (including, without limitation, investigative costs, reasonable attorneys' fees and costs of suit) arising from all events or circumstances related to or in connection with the same general condition;
15. **ENTIRE AGREEMENT:** This Agreement and anything attached to or incorporated into them, constitute the entire agreement between the parties. Any representations, promises or agreements not embodied in this Agreement will not be enforceable. All changes to this Agreement will only be binding on a party if approved in writing by an authorized representative of that party.