



Australian Government

Fair Work  
OMBUDSMAN

### ENFORCEABLE UNDERTAKING

This undertaking is **given** by Securecorp (NSW) Pty Ltd (ACN 108 335 235) and **accepted** by the Fair Work Ombudsman pursuant to s 715(2) of the *Fair Work Act 2009* in relation to the contraventions described in paragraphs 14 to 16 of this undertaking.

## ENFORCEABLE UNDERTAKING

### PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by Securecorp (NSW) Pty Ltd (ACN 108 335 235), c/- 11 Compark Circuit, Mulgrave VIC 3170 (**Securecorp NSW**).

### COMMENCEMENT DATE

2. This Undertaking comes into effect when:
  - (a) the Undertaking is executed by Securecorp NSW; and
  - (b) the FWO accepts the executed Undertaking (**Commencement Date**).

### BACKGROUND

3. Securecorp NSW is a security services provider operating in New South Wales. Securecorp NSW is a wholly owned subsidiary of Securecorp Pty Ltd (ACN 128 998 649) and is part of the Securecorp group of companies (**Securecorp Group**), a provider of security services in Australia.
4. On or around 17 June 2016, the Securecorp Group, including Securecorp NSW was acquired by Guardforce Investment Holdings Pty Limited (ACN 610 494 105).
5. From 1 July 2014, Securecorp NSW (under previous management) engaged WJS (Aus) Group Pty Ltd (ACN 167 442 033) (deregistered) trading as Manpower Integrated Services (**Manpower**) pursuant to a security services agreement (**Services Agreement**) to provide security guards on various sites in New South Wales. Manpower was the employer of the security guards.
6. On or around 27 June 2016, Securecorp NSW ceased to engage Manpower and engaged MIS Group NSW Pty Ltd (ACN 608 348 269) (**MIS**), also trading as Manpower Integrated Services, to provide the same services as Manpower had provided under the Services Agreement. At all relevant times, MIS was owned and operated by the same director as Manpower. MIS was the employer of the security guards. Securecorp NSW ceased to engage MIS on or around 31 December 2016.
7. In September 2018, Manpower was deregistered.
8. In March 2016, the FWO received a request for assistance from an employee of Manpower. The employee worked at sites where Manpower was engaged to undertake security services pursuant to the Services Agreement with Securecorp NSW. The FWO commenced an investigation into alleged underpayments of employee entitlements by Manpower, and later MIS, and Securecorp NSW's involvement in those alleged underpayments.
9. The FWO investigated the alleged underpayments affecting the employee who contacted the FWO for the period 6 April 2015 to 1 November 2015, and also investigated the conditions of various Manpower and MIS employees working at a number of sites predominantly in NSW from 1 January 2016 to 21 August 2016 (collectively, the **Assessment Periods**).



## CONDUCT OF MANPOWER AND MIS

10. Securecorp NSW accepts and the FWO reasonably believes that, during the Assessment Periods:
  - (a) Manpower and/or MIS employed the employees listed in Schedule A (**Employees**) as casual, part-time and full-time Level 1 Security Officers under the *Security Services Industry Award 2010* (**Security Award**);
  - (b) the Employees provided security services to Securecorp NSW under the Services Agreement;
  - (c) Manpower and MIS each paid the Employees flat hourly rates of pay between \$20.00 and \$22.00 for all hours worked;
  - (d) Securecorp NSW engaged Manpower and MIS to provide security services at numerous sites and set the hours that Manpower and MIS were required to provide security guards at each site. As a result the Employees were at times required to work at night, on weekends and on public holidays; and
  - (e) a number of the Employees worked broken shifts, shifts in excess of 10 hours and hours in excess of 38 hours a week.
11. During the Assessment Periods, the minimum base hourly rates of pay for a Security Officer Level 1, as provided for by clause 14 of the Security Award, were:
  - (a) from 6 April 2015 to 5 July 2015: \$18.95;
  - (b) from 6 July 2015 to 3 July 2016: \$19.42; and
  - (c) from 4 July 2016 to 21 August 2016: \$19.89.
12. Securecorp NSW accepts and the FWO reasonably believes that, by reason of the matters set out at paragraphs 10 to 11 above, Manpower contravened the following clauses of the Security Award:
  - (a) casual loading – clause 10.5(b);
  - (b) broken shift allowance – clause 15.1;
  - (c) minimum payment for broken shifts – clause 21.7;
  - (d) penalty rates for night span – clause 22.3;
  - (e) penalty rates for Saturday span – clause 22.3;
  - (f) penalty rates for Sunday span – clause 22.3;
  - (g) penalty rates for public holidays – clause 22.3;
  - (h) overtime rates for Monday to Friday – clause 23.3;
  - (i) overtime rates for Saturday – clause 23.3;
  - (j) overtime rates for Sunday – clause 23.3;
  - (k) overtime rates for public holidays – clause 23.3; and
  - (l) minimum break between shifts – clause 23.5,

and therefore Manpower contravened section 45 of the FW Act (**Manpower Contraventions**).

13. Securecorp NSW accepts and the FWO reasonably believes that, by reason of the matters set out at paragraphs 10 to 11 above, MIS contravened the following clauses of the Security Award:

- (a) casual loading – clause 10.5(b);
- (b) broken shift allowance – clause 15.1;
- (c) minimum payment for broken shifts – clause 21.7;
- (d) penalty rates for night span – clause 22.3;
- (e) penalty rates for Saturday span – clause 22.3;
- (f) penalty rates for Sunday span – clause 22.3;
- (g) overtime rates for Monday to Friday – clause 23.3;
- (h) overtime rates for Saturday – clause 23.3;
- (i) overtime rates for Sunday – clause 23.3; and
- (j) minimum break between shifts – clause 23.5,

and therefore MIS contravened section 45 of the FW Act (**MIS Contraventions**).

## ADMISSIONS

14. Securecorp NSW admits and the FWO reasonably believes that during the Assessment Periods:
  - (a) Securecorp NSW received timesheets each week from sites where Securecorp NSW was the head contractor. The timesheets recorded the number and the times of the hours worked by the Employees;
  - (b) the amounts Securecorp NSW paid Manpower and MIS for the provision of security services were rates between \$24.50 and \$26.50 per hour (**Securecorp NSW Rates**) for each hour worked by the Employees; and
  - (c) Securecorp NSW, through its then officers and employees, was aware that some of the hours worked by the Employees would attract additional loadings or penalties under the Security Award.
15. Securecorp NSW admits and the FWO reasonably believes that the Securecorp NSW Rates were insufficient to enable Manpower and MIS to consistently meet their obligations to pay the Employees the following minimum entitlements under the Security Award during the Assessment Periods:
  - (a) casual loading (from the first pay period commencing on or after 1 July 2016) – clause 10.5(b);
  - (b) broken shift allowance – clause 15.1;
  - (c) minimum payment for broken shifts – clause 21.7;
  - (d) penalty rates for night span for all casual employees – clause 22.3;
  - (e) penalty rates for Saturday span – clause 22.3;
  - (f) penalty rates for Sunday span – clause 22.3;
  - (g) penalty rates for public holidays – clause 22.3;
  - (h) overtime rates for Monday to Friday – clause 23.3;
  - (i) overtime rates for Saturday – clause 23.3;
  - (j) overtime rates for Sunday – clause 23.3;
  - (k) overtime rates for public holidays – clause 23.3; and



- (l) minimum break between shifts – clause 23.5.
- 16. Securecorp NSW admits and the FWO reasonably believes that Securecorp NSW was involved, within the meaning of section 550 of the FW Act, in each of the Manpower and MIS Contraventions and is therefore taken to have contravened section 45 of the FW Act.
- 17. Securecorp NSW admits and the FWO reasonably believes that, by reason of the matters set out at paragraphs 14 to 16 above, the Employees were underpaid – so far as it relates to Securecorp NSW's involvement - **\$201,677.55**, as recorded in Schedule A (**Underpayments**). The Underpayments are equal to the difference between the Securecorp NSW Rates and the amounts the Employees were entitled to be paid under the Security Award in respect of the Manpower and MIS Contraventions.
- 18. The contraventions identified in paragraphs 15 and 16 of this Undertaking do not include any contraventions which have not yet occurred at the date that this Undertaking is offered by Securecorp NSW (whether or not those contraventions are identified in the Contractor Compliance Audits described at paragraphs 38 to 50 below). For the avoidance of doubt this Undertaking is not given in respect of any contravention which has not occurred on the date which it is offered by Securecorp NSW and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any such contravention.

## **UNDERTAKINGS**

- 19. Upon the Commencement Date and for the purposes of section 715 of the FW Act, Securecorp NSW undertakes to take the following actions set out at paragraphs 20 to 72 below.

### **Rectification of Underpayments**

- 20. Securecorp NSW will:
  - (a) subject to paragraph 21 below, within four (4) months of the Commencement Date rectify the Underpayments to the Employees by paying each Employee the relevant amount, including interest of 5%, as listed in Schedule A, less any deductions required by law; and
  - (b) provide evidence to the FWO of payments made to the Employees under paragraph 20(a) on each of the following dates:
    - (i) one (1) month after the Commencement Date;
    - (ii) two (2) months after the Commencement Date;
    - (iii) three (3) months after the Commencement Date; and
    - (iv) four (4) months after the Commencement Date.
- 21. If any of the Employees to whom Underpayments are owed cannot be located by the time specified in paragraph 20(a) above, Securecorp NSW will pay the amounts owing to those employees, including interest, into a dedicated bank account and provide the FWO details of the account, the monies that have been deposited into the account and which Employees the deposits relate to.
- 22. Any money deposited in accordance with paragraph 21 must remain in the bank account until two (2)

years after the Commencement Date, except as specified in paragraph 23 below. During that period Securecorp NSW undertakes to make reasonable ongoing attempts to locate the Employees. These attempts will include, but not be limited to, sending correspondence to Employees and contacting Employees by telephone, using last-known contact details for the Employees.

23. Any money deposited into the bank account in respect of an Employee in accordance with paragraph 21 above must be paid to that Employee if and when that Employee is located or details enabling the Employee to be paid are obtained by Securecorp NSW.
24. Every three (3) months from the Commencement Date, Securecorp NSW will report to the FWO on any and all attempts made to locate the Employees and/or provide evidence of payments made to the Employees in accordance with paragraphs 22 and 23 above.
25. For the purposes of this Undertaking, the FWO acknowledges that Securecorp NSW was not the employer of the Employees (and Additional Employees) and that the FWO will need to, where possible, assist in providing relevant contact details to Securecorp NSW for it to make attempts to contact, and contact, the Employees (and Additional Employees). Securecorp NSW agrees that any contact details released by the FWO pursuant to this paragraph will only be used for the purpose of attempting and establishing contact with the Employees (and Additional Employees) in order to rectify any underpayment owed to those Employees (and Additional Employees). The contact details are not to be used for any other purpose and Securecorp NSW will take all appropriate steps to protect the privacy of the individuals identified in the contact details by handling their personal information in accordance with the *Privacy Act 1998* (Cth).

#### **Retrospective review of payments to Manpower and MIS employees**

26. Securecorp NSW must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Reviewer**) to review the payments made by Securecorp NSW to Manpower and MIS during the period 6 April 2015 to 21 August 2016 (**Review Period**) and assess whether any additional Manpower or MIS employees who provided security services to Securecorp NSW, other than the Employees (**Additional Employees**), have been underpaid entitlements under the Security Award during the Review Period (**Review**).
27. Securecorp NSW will notify the FWO of its proposed Independent Reviewer by no later than two (2) months after the Commencement Date. The FWO may in its sole discretion approve the Independent Reviewer in writing or otherwise require Securecorp NSW to propose another Independent Reviewer until the FWO has approved in writing an Independent Reviewer. The Independent Reviewer must be approved by the FWO in writing prior to being engaged by Securecorp NSW.
28. Securecorp NSW must ensure that the Review includes:
  - (a) the total amount Securecorp NSW paid to Manpower and/or MIS in respect of work performed by each Additional Employee during the Review Period;



- (b) the amounts each Additional Employee was entitled to be paid under the Security Award during the Review Period for the time worked as included in records held by Securecorp NSW;
  - (c) any shortfall between the amounts Securecorp NSW paid to Manpower and/or MIS for the work performed by each Additional Employee during the Review Period and those Additional Employees' entitlements under the Security Award in respect of the identified contraventions in paragraphs 12 and 13 above (**Review Underpayments**);
  - (d) the production of a written report on the Review setting out the Independent Reviewer's findings, and the facts and circumstances surrounding them, to the FWO; and
  - (e) that the written report referred to in (d) above contains the following declarations from the Independent Reviewer:
    - (i) the Independent Reviewer has no actual, potential or perceived conflict of interest in providing the report to the FWO;
    - (ii) notwithstanding that the Independent Reviewer is retained by Securecorp NSW, the Independent Reviewer undertakes that it has acted independently, impartially, objectively and without influence from Securecorp NSW in preparing the report;
    - (iii) the report is provided in accordance with any applicable professional standards (which will be listed in the report); and
    - (iv) the report is provided to the FWO for its benefit and the FWO can rely on the report.
29. By three (3) months after the Commencement Date, Securecorp NSW will provide for the FWO's approval, details of the methodology to be used by the Independent Reviewer to conduct the Review. The FWO will provide any comments on the proposed methodology to Securecorp NSW by no later than two (2) weeks after Securecorp NSW provides the proposed methodology.
30. Securecorp NSW must ensure that the Review commences by no later than one (1) month after the FWO approves the methodology.
31. Securecorp NSW will use its best endeavours to ensure the Independent Reviewer finalises the Review and provides a written report of the Review (**Review Report**) directly to the FWO by no later than two (2) months after the Review commences.
32. Securecorp NSW will:
- (a) subject to paragraph 33 below, within four (4) months of the Review Report being provided to Securecorp NSW by the Independent Reviewer, rectify any Review Underpayments to the Additional Employees by paying each Employee the relevant amount as identified in the Review Report, plus interest of 5%, less any deductions required by law; and
  - (b) provide evidence to the FWO of payments made to the Additional Employees under paragraph 32(a) on each of the following dates:
    - (i) one (1) month after the Review Report is provided to Securecorp NSW;
    - (ii) two (2) months after the Review Report is provided to Securecorp NSW;
    - (iii) three (3) months after the Review Report is provided to Securecorp NSW; and

- (iv) four (4) months after the Review Report is provided to Securecorp NSW.
33. If any of the Additional Employees to whom Review Underpayments are owed cannot be located by the time specified in paragraph 32(a) above, Securecorp NSW will pay the amounts owing to those employees, including interest, into the dedicated bank account referred to in paragraph 21 and provide the FWO details of the monies that have been deposited into the account and which employees the deposits relate to.
  34. Any money deposited in accordance with paragraph 33 must remain in the bank account until two (2) years from the date the Review Report is finalised except as specified in paragraph 35 below. During that period Securecorp NSW undertakes to make reasonable ongoing attempts to locate the Additional Employees. These attempts will include, but not be limited to, sending correspondence to the Additional Employees and contacting the Additional Employees by telephone, using last-known contact details for the Additional Employees.
  35. Any money deposited into the bank account in respect of the Additional Employees in accordance with paragraph 33 above must be paid to the employee if and when that employee is located or details enabling the employee to be paid are obtained by Securecorp NSW.
  36. Every three (3) months from the date the Review Report is finalised, Securecorp NSW will report to the FWO on any and all attempts made to locate the Additional Employees and/or provide evidence of payments made to the Additional Employees in accordance with paragraphs 34 and 35 above.

#### **Contribution payment**

37. Within 14 days of the Commencement Date, Securecorp NSW will make a total payment of \$10,000 into the Consolidated Revenue Fund of the Commonwealth, and notify the FWO in writing of the payment, and complete any required documents provided by the FWO to comply with the requirements of this paragraph.

#### **Future compliance audits**

38. Securecorp NSW must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Auditor**) to conduct, in 2021, two audits of Securecorp NSW's engagement of security subcontractors (**Contractors**) and the level of compliance by those Contractors with the Security Award (or any other applicable industrial instrument) and Commonwealth workplace laws (**Compliance Audits**).
39. Securecorp NSW will notify the FWO of its proposed Independent Auditor by no later than 15 February 2021. The FWO may in its sole discretion approve the Independent Auditor in writing or otherwise require Securecorp NSW to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing prior to being engaged by Securecorp NSW.
40. Securecorp NSW must ensure that each of the Compliance Audits conducted by the Independent Auditor includes an assessment of Securecorp NSW's processes for engaging Contractors, and in



particular:

- (a) the wages and conditions of a sample of employees engaged by Contractors during the relevant period (**Sample Employees**). The audit will assess wages and conditions of the Sample Employees during the relevant audit period against minimum entitlements under the Security Award (or any other applicable industrial instrument) and will include site visits and direct contact with employees. The Sample Employees will:
  - (i) represent at least 10% of all employees of Contractors engaged by Securecorp NSW;
  - (ii) relate to a range of Contractors working on different sites;
  - (iii) include a range of classifications and employment types (full-time, part-time and casual employees);
- (b) an assessment of whether the amounts paid by Securecorp NSW to Contractors allows the Contractors to pay the Sample Employees amounts at least equal to the minimum entitlements under the Security Award (or any other applicable industrial instrument);
- (c) the production of a written report on each of the Audits setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
- (d) that each of the written reports referred to in (c) above contains the following declarations from the Independent Auditor:
  - (i) the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO;
  - (ii) notwithstanding that the Independent Auditor is retained by Securecorp NSW, the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from Securecorp NSW in preparing the report;
  - (iii) the report is provided in accordance with any applicable professional standards (which will be listed in the report); and
  - (iv) the report is provided to the FWO for its benefit and the FWO can rely on the report.

#### The First Audit

41. Securecorp NSW must ensure the Independent Auditor commences the first of the Audits by no later than 31 March 2021 (**First Audit**).
42. The relevant audit period for the First Audit must be at least four full pay periods falling within the period 1 January 2021 to 31 March 2021.
43. By 26 February 2021, Securecorp NSW will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
44. Securecorp NSW will use its best endeavours to ensure the Independent Auditor provides a draft written report of the First Audit directly to the FWO by 14 May 2021, setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings. Securecorp NSW will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Securecorp NSW without the FWO's approval.

45. Securecorp NSW will use its best endeavours to ensure the Independent Auditor finalises the First Audit and provides a written report of the First Audit (**First Audit Report**) directly to the FWO within one (1) month of FWO providing any comments on the draft report to the Independent Auditor. Securecorp NSW will ensure the Independent Auditor does not provide the First Audit Report, or a copy of the same, to Securecorp NSW without the FWO's approval.

#### The Second Audit

46. Securecorp NSW must ensure the Independent Auditor commences the second of the Audits by no later than 15 October 2021 (**Second Audit**).
47. The relevant audit period for the Second Audit must be at least four full pay periods falling within the period 1 July 2021 to 30 September 2021.
48. Unless otherwise agreed (agreement will not be unreasonably withheld by the parties), the Independent Auditor will use the same methodology as used by the Independent Auditor to conduct the First Audit.
49. Securecorp NSW will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Second Audit directly to the FWO by 15 November 2021, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. Securecorp NSW will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Securecorp NSW without the FWO's approval.
50. Securecorp NSW will use its best endeavours to ensure the Independent Auditor finalises the Second Audit and provides a written report of the Second Audit (**Second Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. Securecorp NSW will ensure the Independent Auditor does not provide the written report, or a copy of the same, to Securecorp NSW without the FWO's approval.

#### Outcome of Audits

51. If any of the Audits identify underpayments to any current or former employees of Contractors, due to the amount Securecorp NSW paid the contractor not being sufficient to meet the minimum entitlements under the Security Award (or any other applicable industrial instrument), Securecorp NSW will conduct a reconciliation of the amounts paid to those Contractors during the relevant audit period and pay to the employees the difference between the rates paid by Securecorp NSW to the relevant Contractor and the amounts the employees were entitled to be paid under the applicable industrial instrument, less any deductions required by law. The reconciliation period for each identified employee will be from the start of the relevant audit period to the end of the relevant audit period.
52. Securecorp NSW will provide to the FWO evidence of such rectification within 28 days of being informed by the FWO of the requirement to undertake the reconciliation.
53. If any employees identified in the Audits as having underpayments owing to them cannot be located within 60 days of the conclusion of the Second Audit, Securecorp NSW will pay the amounts owing



to those employees into the dedicated bank account referred to in paragraph 21, and provide the FWO details of the monies that have been deposited into the account and which employees the deposits relate to.

54. Any money deposited in accordance with paragraph 53 must remain in the bank account until two years from the conclusion of the Second Audit except as specified in paragraph 55 below. During that period, Securecorp NSW undertakes to make reasonable ongoing attempts to locate the employees. These attempts will include, but not be limited to, sending correspondence to the employees and contacting the employees by telephone, using last-known contact details for the employees.
55. Any money deposited into the bank account in respect of the employees in accordance with paragraph 53 above must be paid to the employee if and when that employee is located or details enabling the employee to be paid are obtained by Securecorp NSW.
56. Every three (3) months from the conclusion of the Second Audit, Securecorp NSW will report to the FWO on any and all attempts made to locate the employees and/or provide evidence of payments made to the employees in accordance with paragraphs 54 and 55 above.
57. If either of the Audits identifies an underpayment of minimum entitlements to one or more employees, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, Securecorp NSW will engage an accounting professional or an employment law specialist approved by the FWO to conduct a further audit of all employees of its Contractors (or a particular cohort of employees within this group), as determined by the FWO (**Additional Audit**). Any Additional Audit must be paid for by Securecorp NSW.
58. If requested by the FWO, Securecorp NSW will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within seven (7) days of such a request.

#### **Public notice**

59. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking and notifying Securecorp NSW it has done so, Securecorp NSW will place a notice (**Public Notice**) in each of the following publications and/or websites:
  - (a) the Sydney Morning Herald (Saturday or Sunday edition);
  - (b) the Daily Telegraph (Saturday or Sunday edition);
  - (c) Security Insider, the industry magazine of the Australian Security Industry Association Limited (**ASIAL**);
  - (d) the Securecorp Group website homepage;
  - (e) the Securecorp Group Facebook page; and
  - (f) the Securecorp Group LinkedIn page.
60. The Public Notice must:
  - (a) include the trading name Securecorp NSW and the Securecorp NSW logo;
  - (b) for the publications, appear within the first ten (10) pages of each publication, where applicable;

- (c) for the websites, appear in a prominent position and remain accessible for a period of 180 days; and
  - (d) be in the form of **Attachment A**.
61. Within seven (7) days of its publication, Securecorp NSW will provide evidence of the Public Notices to the FWO.

#### **Enquiries from Manpower and MIS Employees**

62. From the publication of the Public Notice in the publications identified in paragraph 59 above (**Publication Date**), at its own expense, Securecorp NSW will operate a dedicated telephone number (03 85275660) and email address ([enquiries@securecorp.com.au](mailto:enquiries@securecorp.com.au)) (**Hotline**) for all former employees of Manpower and MIS to make enquiries in relation to their entitlements, underpayments or related employment concerns while performing work at sites operated by Securecorp NSW.
63. Securecorp NSW will:
- (a) maintain the Hotline for a period of two (2) years;
  - (b) ensure that the telephone number and email address are included in the Public Notice;
  - (c) advise the Employees and Additional Employees of the existence and purpose of the Hotline, by way of a mail out to their last known addresses, in the form of Attachment A;
  - (d) provide evidence to the FWO that the mail out has been sent to all current and former employees within two (2) months from the Publication Date; and
  - (e) provide a list of enquiries received by the Hotline to the FWO every three (3) months from the establishment of the Hotline until its cessation.
64. Securecorp NSW will take reasonable steps to respond to each enquiry made to the Hotline within 30 days, including but not limited to by:
- (a) reviewing its own records to determine whether it made payments to Manpower or MIS in respect of work performed by the employee;
  - (b) assessing an employee's entitlements under the Security Award; and
  - (c) identifying the difference (if any) between the amounts paid by Securecorp NSW to Manpower or MIS in respect of the employee and the employee's entitlements under the Security Award (**Enquiry Underpayment**).
65. Where an Enquiry Underpayment is identified, Securecorp NSW will, within 30 days of receiving confirmation of the employee's identity and the employee's payment details, make a payment to the affected employee to rectify the Enquiry Underpayment, less any deductions required by law.
66. The total payments to be made pursuant to paragraph 65 will be capped at a total amount of \$300,000.

#### **Industry education and raising awareness**

67. Within two (2) months of the Commencement Date, Securecorp NSW will contribute at its own expense to the publication of an article (**Article**) in Security Insider sharing lessons learned from the FWO's investigation including:



- (a) measures taken by Securecorp NSW to address non-compliance with Commonwealth workplace laws within its supply chain, including rectification, review of governance arrangements, and review of policies and procedures;
- (b) the engagement of subcontractors and ensuring that subcontractors are complying with Commonwealth workplace laws; and
- (c) the moral and ethical responsibility of corporations to ensure compliance within their supply chain.

68. Securecorp NSW will provide a draft of the Article referred to in paragraph 67 to the FWO for its consideration and comment within one (1) month of the Commencement Date.

#### **Reporting of new contractor arrangements**

69. Every six (6) months from the Commencement Date for a period of three (3) years, Securecorp NSW will:
- (a) provide the FWO with a complete list of contractors, providing security services or labour hire of security guards, engaged by Securecorp NSW since the Commencement Date; and
  - (b) within 14 days of any request from the FWO, provide the FWO with copies of any contracts, agreements or other documentation in relation to contractor arrangements as requested.

#### **Reporting of changes to current arrangements**

70. For a period of three (3) years after the Commencement Date, Securecorp NSW will notify the FWO of any change of circumstances that could potentially impact on Securecorp NSW's ability to comply with this Undertaking, as soon as it becomes aware of such circumstances, including but not limited to:
- (a) any significant re-organisation or restructure of Securecorp NSW;
  - (b) the sale or potential sale of Securecorp NSW's security business, or any significant part of that business;
  - (c) any significant change in the engagement of contractors;
  - (d) ceasing or an expectation of ceasing to trade; and
  - (e) any discontinuation of Securecorp NSW's operation as a going concern, including voluntary administration, liquidation or receivership.
71. If any of the circumstances described in paragraph 70 above occur, Securecorp NSW will provide any supporting documentation or other evidence requested by the FWO.

#### **No inconsistent statements**

72. Securecorp NSW:
- (a) must not; and
  - (b) must ensure that each of its officers, employees or agents do not,

make any statement, orally or in writing, or otherwise imply anything that is inconsistent with the acceptances, admissions or acknowledgements contained in this Undertaking.

## ACKNOWLEDGEMENTS

73. Securecorp NSW acknowledges that:

- (a) the FWO may:
  - (i) make this Undertaking (and any of its Attachments) available for public inspection, including by posting it on the FWO's website at [www.fairwork.gov.au](http://www.fairwork.gov.au);
  - (ii) release a copy of this Undertaking (and any of its Attachments) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
  - (iii) issue a media release in relation to this Undertaking;
  - (iv) from time to time, publicly refer to the Undertaking (and any of its Attachments) and its terms; and
  - (v) rely upon the admissions made by Securecorp NSW, in respect of any decisions taken regarding enforcement action, in the event that Securecorp NSW is found to have failed to comply with its workplace relations obligations in the future.
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, Securecorp NSW may withdraw from, or vary, this Undertaking at any time, but only with the consent of the FWO; and
- (d) if Securecorp NSW contravenes any of the terms of this Enforceable Undertaking:
  - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
  - (ii) this Undertaking may be provided to the Court as evidence of the admissions made by Securecorp NSW, and also in respect of the question of costs.



Executed as an undertaking

EXECUTED by Securecorp (NSW) Pty Ltd (ACN 108 335 235) in accordance with section 127(1) of the Corporations Act 2001:

(Signature of director)

CHI LING YING

(Name of director)

17 NOV 2020

(Date)

in the presence of:

(Signature of witness)

GRAND CHAN

(Name of witness)

(Signature of director/company secretary)

PANG KIN KI GREGORY

(Name of director/company secretary)

17 NOV 2020

(Date)

in the presence of:

(Signature of witness)

GRAND CHAN

(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the Fair Work Act 2009 (Cth) on:

Mark Scully  
Deputy Fair Work Ombudsman,  
Compliance and Enforcement  
Delegate for the FAIR WORK OMBUDSMAN

in the presence of:

(Signature of witness)

24/11/20

(Date)

CAMERON HANKINS

(Name of witness)

Schedule A – Schedule of Employees and Underpayments

Name	Company	Underpayment	5% Interest	Total payable
	Manpower	\$11,713.69	\$585.68	\$12,299.37
	Manpower	\$2,136.92	\$106.85	\$2,243.77
	Manpower	\$8,939.23	\$446.96	\$9,386.19
	Manpower	\$3,081.73	\$154.09	\$3,235.82
	Manpower	\$3,295.60	\$164.78	\$3,460.38
	Manpower	\$670.50	\$33.53	\$704.03
	Manpower	\$1,177.08	\$58.85	\$1,235.93
	Manpower	\$3,938.31	\$196.92	\$4,135.23
	Manpower	\$1,919.87	\$95.99	\$2,015.86
	Manpower	\$291.37	\$14.57	\$305.94
	Manpower	\$565.11	\$28.26	\$593.37
	Manpower	\$4,417.56	\$220.88	\$4,638.44
	Manpower	\$350.73	\$17.54	\$368.27
	Manpower	\$397.20	\$19.86	\$417.06
	Manpower	\$892.92	\$44.65	\$937.57
	Manpower	\$1,085.77	\$54.29	\$1,140.06
	Manpower	\$157.67	\$7.88	\$165.55
	Manpower	\$8,088.17	\$404.41	\$8,492.58
	Manpower	\$3,445.08	\$172.25	\$3,617.33
	Manpower	\$8,844.90	\$442.25	\$9,287.15
	Manpower	\$7,227.02	\$361.35	\$7,588.37
	Manpower	\$3,286.01	\$164.30	\$3,450.31
	Manpower	\$2,075.79	\$103.79	\$2,179.58
	Manpower	\$3,714.70	\$185.74	\$3,900.44
	Manpower	\$904.76	\$45.24	\$950.00
	Manpower	\$3,220.99	\$161.05	\$3,382.04
	Manpower	\$8,873.89	\$443.69	\$9,317.58
	Manpower	\$3,183.33	\$159.17	\$3,342.50
	Manpower	\$3,438.48	\$171.92	\$3,610.40
	Manpower	\$6,135.96	\$306.80	\$6,442.76
	Manpower	\$2,927.83	\$146.39	\$3,074.22
	Manpower	\$1,216.04	\$60.80	\$1,276.84
	Manpower	\$957.27	\$47.86	\$1,005.13
<b>MANPOWER TOTAL</b>		<b>\$112,571.48</b>	<b>\$5,628.59</b>	<b>\$118,200.07</b>



Name	Company	Underpayment	5% interest	Total payable
	MIS	\$3,805.32	\$190.27	\$3,995.59
	MIS	\$2,815.36	\$140.77	\$2,956.13
	MIS	\$3,540.44	\$177.02	\$3,717.46
	MIS	\$154.72	\$7.74	\$162.46
	MIS	\$3,403.64	\$170.18	\$3,573.82
	MIS	\$3,640.40	\$182.02	\$3,822.42
	MIS	\$1,367.04	\$68.35	\$1,435.39
	MIS	\$252.16	\$12.61	\$264.77
	MIS	\$433.29	\$21.66	\$454.95
	MIS	\$2,533.24	\$126.66	\$2,659.90
	MIS	\$1,585.83	\$79.29	\$1,665.12
	MIS	\$2,508.41	\$125.42	\$2,633.83
	MIS	\$1,697.61	\$84.88	\$1,782.49
	MIS	\$4,367.82	\$218.39	\$4,586.21
	MIS	\$4,101.67	\$205.08	\$4,306.75
	MIS	\$555.68	\$27.78	\$583.46
	MIS	\$776.01	\$38.80	\$814.81
	MIS	\$1,948.05	\$97.40	\$2,045.45
	MIS	\$1,417.18	\$70.86	\$1,488.04
	MIS	\$2,960.83	\$148.04	\$3,108.87
	MIS	\$2,662.25	\$133.11	\$2,795.36
	MIS	\$2,266.46	\$113.32	\$2,379.78
	MIS	\$382.11	\$19.11	\$401.22
	MIS	\$1,843.23	\$92.16	\$1,935.39
	MIS	\$1,606.15	\$80.31	\$1,686.46
	MIS	\$143.78	\$7.19	\$150.97
	MIS	\$1,290.08	\$64.50	\$1,354.58
	MIS	\$1,934.58	\$96.73	\$2,031.31
	MIS	\$5,326.75	\$266.34	\$5,593.09
	MIS	\$503.52	\$25.18	\$528.70
	MIS	\$3,901.45	\$195.07	\$4,096.52
	MIS	\$1,047.03	\$52.35	\$1,099.38
	MIS	\$2,186.31	\$109.32	\$2,295.63
	MIS	\$983.36	\$49.17	\$1,032.53
	MIS	\$1,249.84	\$62.49	\$1,312.33
	MIS	\$6,009.25	\$300.46	\$6,309.71
	MIS	\$4,270.28	\$213.51	\$4,483.79
	MIS	\$644.80	\$32.24	\$677.04
	MIS	\$461.95	\$23.10	\$485.05

	MIS	\$37.89	\$1.89	\$39.78
	MIS	\$2,655.50	\$132.78	\$2,788.28
	MIS	\$229.24	\$11.46	\$240.70
	MIS	\$3,605.56	\$180.28	\$3,785.84
MIS TOTAL	MIS	\$89,106.07	\$4,455.29	\$93,561.36



## Attachment A – Notice

### Contraventions of Fair Work Act by Securecorp (NSW) Pty Ltd (ACN 108 335 235) trading as Securecorp NSW

Securecorp NSW has formally admitted to the Fair Work Ombudsman (FWO) that it was involved within the meaning of section 550 of the *Fair Work Act 2009* (Cth) (Act) in contraventions of the Act and the *Security Services Industry Award 2010* by its previous subcontractors, namely WJS (Aus) Group Pty Ltd (ACN 167 442 033) (deregistered) and MIS Group NSW Pty Ltd (ACN 608 348 269), both trading as Manpower Integrated Services (Manpower), including:

- failing to pay casual loading;
- failing to pay penalty rates for night span, weekends and public holidays; and
- failing to pay overtime for Mondays to Fridays, weekends and public holidays.

The conduct above resulted in identified underpayments of **\$201,677.55** owing to **49** security guards who worked during the period 6 April 2015 to 21 August 2016.

Securecorp NSW has entered into an Enforceable Undertaking with the FWO (available at [www.fairwork.gov.au](http://www.fairwork.gov.au)).

Securecorp NSW has committed to a number of measures to remedy the contraventions including:

- rectifying the identified underpayments and paying 5% interest on the underpayments;
- establishing a hotline for employees and former employees of Manpower; and
- committing to future independent wage audits to verify that employees of contractors are being paid correctly.

Securecorp NSW expresses its sincere regret and apologises for the conduct which resulted in the contraventions by Manpower. Furthermore, Securecorp NSW gives a commitment that such conduct will not occur again and that it will comply with all requirements of Commonwealth workplace laws in the future.

If you worked for Manpower at a site serviced by Securecorp NSW and have queries or questions relating to your employment, please contact Securecorp NSW directly through their non-confidential enquiry line on telephone number: 03 85275660 or email address [enquiries@securecorp.com.au](mailto:enquiries@securecorp.com.au)

Alternatively, anyone can contact the FWO via the website at [www.fairwork.gov.au](http://www.fairwork.gov.au) or the Infoline on 13 13 94.