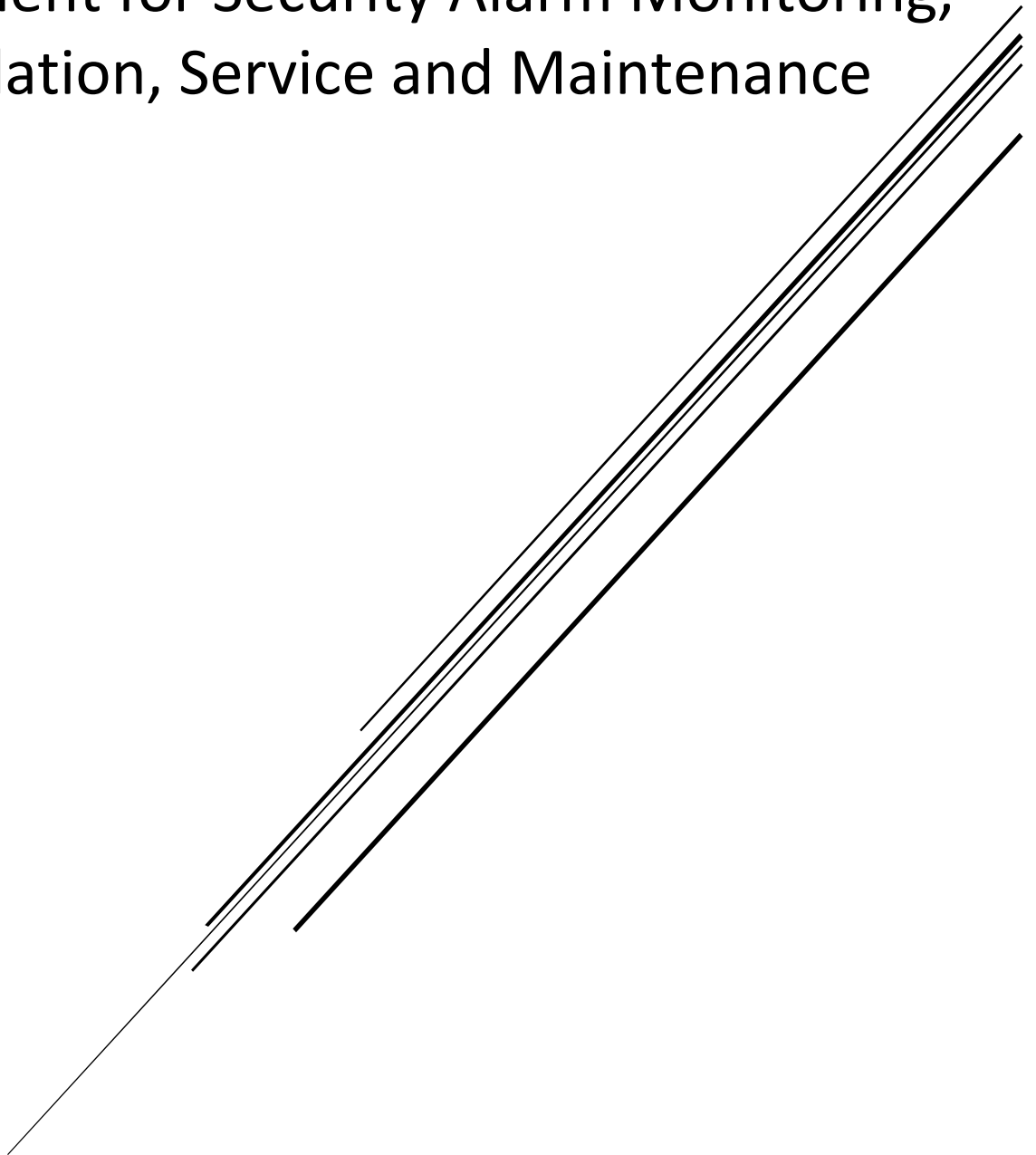


Clarke Security Pty Ltd



Agreement for Security Alarm Monitoring,
Installation, Service and Maintenance



Clarke Security Pty Ltd
ABN 79 083 238 582

RECITALS

- A** Clarke Security Pty Ltd of 122 Ashley Street, Underdale SA 5031 (Clarke Security) carries on the business of providing Security Services and installing, monitoring and maintaining Security Equipment.
- B** The Customer has requested and Clarke Security has agreed to provide the Security Services and install and/or monitor and/or maintain the Security Equipment in the Customer's Premises on the terms set out in this Agreement.

IT IS AGREED

1. INTERPRETATION

1.1 Definitions

In this document:

Agreement means this agreement.

Business Day means a day in the State of South Australian which is not a Saturday, Sunday or public holiday.

Claims means all demands, claims, proceedings, penalties, fines and liability (whether in criminal or civil, in contract, tort or otherwise).

Commencement Date means the date specified in this Agreement, or if no date is specified the date determined in accordance with clause 9.1.

Fees means the amounts set out in this Agreement.

Initial Monitoring Period means the period of 30 days from the Commencement Date.

Loss means all losses including financial losses, damages, legal costs and other expenses of any nature whatsoever.

Parties means Clarke Security and the Customer, and Party means either one of them.

Premises means the property situated at the address specified in this Agreement.

Related Bodies Corporate has the meaning given to that term Section 50 of the Corporations Act, 2001.

Security Services means the services to be provided by Clarke Security under this Agreement.

Security Equipment means the equipment to be supplied, installed, monitored, and/or maintained by Clarke Security under this Agreement.

Special Conditions means the document attached to Schedule 1 which forms a part of this Agreement.

State means the State of South Australia.

Term means the period specified in clause 9.2, and any renewal.

1.2 Interpretation

Unless expressed to the contrary:

- (a) words importing:
- (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (b) if a word or phrase is defined, cognate words and phrases have corresponding definitions;
- (c) a reference to:
- (i) a person includes a business, unincorporated associations, corporation and a government or statutory body or authority;
 - (ii) a person includes its legal personal representatives, successors and assigns;

- (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) a right includes a benefit, remedy, discretion, authority or power;
 - (v) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - (vi) provisions or terms of this document or another document, agreement understanding or arrangement include a reference to both express and implied provisions and terms;
 - (vii) time is to local in the State;
 - (viii) "\$" or "dollars" is a reference to the lawful currency of Australia;
 - (ix) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties;
 - (x) writing includes any mode of representing or reproducing words in tangible or permanently visible form, and includes facsimile transmission and email;
 - (xi) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (d) headings are for the convenience of the parties and do not affect the interpretation of this Agreement.
 - (e) the Agreement is written in plain English. The terms of the Agreement are to be interpreted so as to give efficacy to the parties' Agreement. No rule resolving a doubt as to interpretation against the party preparing this Agreement will apply. The specific provisions will not limit the interpretation of general provisions;
 - (f) the Schedules form part of this Agreement;
 - (g) the annexure is as attached and forms part of this Agreement.

2. PROVISION OF SERVICES

- 2.1 In consideration of the payment of the Fees, Clarke Security will, during the term of this Agreement, provide the Security Services to the Customer at the Premises.

3 WARRANTIES

- 3.1 Clarke Security warrants that, for the duration of this Agreement:
 - 3.1.1 It will provide the Security Services with reasonable care and skill;
 - 3.1.2 It will provide the Security Services in compliance with all relevant legislation, regulations, Australian Standards, and codes of practice.
- 3.2 Nothing in this Agreement constitutes the relationship of partnership or employer or employee between Clarke Security and the Customer or between the Customer and Clarke Security's employees and agents and it is the express intention of the Parties that any such relationships are denied.
- 3.3 Notwithstanding the warranties in paragraph 3.1(a), the Parties acknowledge that the purpose of the Security Service is to reduce risk of damage to the Premises.
- 3.4 The Parties acknowledge that Clarke Security does not, and cannot, guarantee the security of the Premises and that nothing in this Agreement may be interpreted as a warranty to that effect.

4 SECURITY PATROL RESPONSES AND MONITORING SERVICES

- 4.1 Should Clarke Security be unable to contact the nominated person on the after-hours list by one telephone call within a reasonable period of time (as per Australian Standard AS 2201) to

confirm whether a police response or a security patrol is necessary, Clarke Security's role in notifying the police or dispatching a security patrol will fall into two categories:

4.2 **Category "A" Alarm**

4.2.1 Duress and/or hold up alarms (victim operated alarms)

4.2.2 Offenders/intruder initiated alarms are:

- Financial institutions including gaming rooms alarms;
- Ministerial premises or premises of persons at risks;
- Prescription drug wholesalers and distributors, including chemist shops, doctors surgeries, clinics and hospitals;
- Firearms dealers and collectors where a gun room area is defined;
- Premises where the type of goods stored constitute a risk to the public;
- Premises from which multiple sector alarms have been received (two or more sensors activated);
- Premises identified as being at risk (domestic violence alarms, or single sector alarms activation at premises which have been the target of repeated break-ins);
- Alarms at which there is identified criminal activity;
- Police Premises;
- Central monitoring stations;
- Critical infrastructure locations as listed by Police; and
- DTU & security line failure.

4.2.3 The standard response in Category A is to notify the nominated person on the after-hours list and notify the police.

4.3 **Category "B" Alarm**

4.3.1 Alarms that are not listed in paragraph 4.2 are classified as a Category B Alarm.

4.3.2 The standard response in the event of a Category B alarm is to notify the nominated person on the after-hours list.

4.3.3 In the event that Clarke Security is unable to contact the nominated person on the after-hours list, a security patrol will be dispatched to the Premises at the Customer's expense.

4.3.4 In the event that the security patrol has been dispatched to the Premises and has detected a break and entry, the security patrol will notify the police.

4.3.5 In the event of a medical alert, the nominated person on the after-hours list is contacted and in the case of a medical emergency, an ambulance will be contacted.

4.3.6 Upon a security patrol arriving at the Premises, that security patrol may take such reasonable steps as it considers appropriate, having regard to the assessment the security patrol is able to make as to the circumstances which may have resulted in setting off the alarm.

4.3.7 The security patrol will cease undertaking action if a person at the premises provides evidence satisfactory to the security patrol that they are the owner of the premises or are authorised to act on behalf of the Customer.

4.3.8 Where Clarke Security has dispatched a security patrol in accordance with this Agreement, it may invoice the Customer for the security patrol response fee. The Customer must pay that invoice within 30 days of receipt of Clarke Security's invoice for that fee.

5 FEES

- 5.1 In consideration of the provision of the Security Services, the Customer must pay Clarke Security the Fees and must also pay Clarke Security for services provided (at a rate set by Clarke Security acting reasonably from time to time), and reimburse Clarke Security for any third party costs included (including emergency services attendance), for responding to alarms in accordance with this Agreement.

6 REPAIR OF EQUIPMENT

- 6.1 If Security Equipment is damaged, fails to operate or requires replacement, Clarke Security will, if requested by the Customer, and provided the repair, maintenance or replacement is reasonably possible, undertake such repair and maintenance of the Security Equipment as necessary to rectify the damage, correct the failure or replace the relevant parts.
- 6.2 Clarke Security will bear the costs of undertaking the work if there is a warranty applicable under this Agreement or at law.
- 6.3 Where clause 6.2 does not apply, the Customer must pay Clarke Security's rates as set by Clarke Security acting reasonably from time to time for any repair, maintenance, supply and installation undertaken by Clarke Security. Clarke Security will issue an invoice to the Customer for any payment due by the Customer to Clarke Security.

7 EXPRESS WARRANTIES

- 7.1 Clarke Security provides the following warranties in relation to the Security Equipment:
- 7.1.1 3 year replacement warranty in respect of any defect in the Security Equipment;
 - 7.1.2 3 year labour warranty in respect of any defect in the Security Equipment; and
 - 7.1.3 12 month warranty on batteries supplied – rechargeable or otherwise.
- 7.2 Those express warranties:
- 7.2.1 do not limit the operation of guarantees that apply under the Australian Consumer Law (for example, the Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage, and the Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure);
 - 7.2.2 apply to defects existing at the time of installation of the Security Equipment;
 - 7.2.3 do not apply to any defect in the Security Equipment caused by the Customer (including through misuse of equipment), defect caused by any third party (other than a contractor or supplier of Clarke Security) or defect caused by a circumstance otherwise outside the control of Clarke Security;
 - 7.2.4 do not apply to any existing security system but do apply to any modifications or upgrades made to such existing security system by Clarke Security or a person acting on behalf of Clarke Security; and
 - 7.2.5 cease to apply if a person other than Clarke Security (or any Clarke Security person acting on behalf of Clarke Security) performs work on the Security Equipment, other than with Clarke Security's consent.

8 FEES

- 8.1 The payment of Fees must be made by the Customer to Clarke Security within 30 days of the date of Clarke Security's invoice for the Security Services specified in the invoice.
- 8.2 Clarke Security is entitled to invoice the Customer monthly in advance.
- 8.3 If the Customer does not make payment by the date stated in an invoice or otherwise provided for in this Agreement, then Clarke Security is entitled to:
- 8.3.1 charge interest on the outstanding amount accruing daily;

- 8.3.2 require the Customer to pay in advance for any Security Services (or any part of the Security Services which has not yet been performed); and
- 8.3.3 not perform any other Security Services (or any part of the Security Services).
- 8.4 When making payment, the Customer must quote the relevant reference numbers and the invoice number.

9 THE TERM

- 9.1 This Agreement will become effective on the Commencement Date or from the date of purchase of the Security Equipment.
- 9.2 The term of this Agreement is for a period of 3 (three) years from the Commencement Date (expiring at midnight on the anniversary of the Commencement Date), unless terminated early as provided in this Agreement.
- 9.3 Upon expiry of the three year period this Agreement will be automatically renewed for successive periods of 1 (one) year each unless terminated by either Party with 30 days written notice prior to such automatic renewal.
- 9.4 If the Customer has requested Clarke Security to install the Security Equipment, at any time prior to Clarke Security installing the Security Equipment, the Customer may terminate the Agreement by notice to Clarke Security. If this occurs, Clarke Security may retain such part of the Customer's deposit (if applicable) as is required to reimburse Clarke Security for its costs incurred up to the date of termination.
- 9.5 Where the Customer has agreed to an Initial Monitoring Period for the Services and this Agreement is terminated during the Initial Monitoring Period, the customer will be liable to pay the balance of the Fees that would have been payable during the Initial Monitoring Period.

10 LIABILITY AND INDEMNITY

- 10.1 To the extent permitted by law and subject to the Australian Consumer Law:
 - 10.1.1 All warranties, terms and conditions in relation to the supply of goods and services under this Agreement which may otherwise be implied by use, statute or otherwise are excluded;
 - 10.1.2 Clarke Security has no other liability to the Customer for any loss, damage, personal injury, death or theft caused or undertaken by any person who gains unauthorised access to the Premises, irrespective of the means by which such person gains access; and
 - 10.1.3 Clarke Security has no liability to the Customer for any loss of profits, revenue, use, opportunity or contract; costs of capital, cost of substitute equipment, facilities or services; costs of claims by suppliers to, or customers of the Customer; liability incurred by the Customer to any third party; increased costs of operating any business undertaken by the Customer; indirect loss; consequential loss; or special loss.
- 10.2 To the extent permitted by law and without limiting the limitations and exclusions on liability set out above and subject to clause 10.1, Clarke Security's aggregate liability for all acts or omissions under, or relating to, this Agreement in any consecutive 12 month period is limited, for all claims in respect of that period, to \$10,000.
- 10.3 This clause applies to all claims of any nature and on any basis against Clarke Security and references in this clause to Clarke Security include Clarke Security's employees, agents and contractors and the Customer acknowledges that Clarke Security holds the benefit of the clause both on Clarke Security's own account and on trust for its employees, agents and contractors.

11 TERMINATION

- 11.1 Notwithstanding the other remedies or rights a Party may have, either Party may terminate this Agreement at any time, by giving no less than 30 days written notice to the other Party, such notice to take effect as specified in the notice.

- 11.2 Clarke Security may terminate this Agreement immediately upon written notice to the Customer if:
- 11.2.1 the Customer is in breach of any obligation under this Agreement and has failed to remedy that breach within 14 days of notice from Clarke Security requiring that breach to be remedied;
 - 11.2.2 the Customer enters into any arrangement with its creditors (other than on solvent terms) or goes into bankruptcy, administration, receivership or liquidation; or
 - 11.2.3 Clarke Security is unable to obtain or retain for any reason transmission of signals between the Premises and/or the Security Equipment (or existing security system) and the monitoring centre.
- 11.3 The Customer may terminate this Agreement immediately upon written notice to Clarke Security if:
- 11.3.1 Clarke Security is in breach of any other obligation under this Agreement or at law (including of any guarantee under consumer protection legislation) and has failed to remedy that breach within 14 days of notice from the Customer requiring the breach to be remedied; or
 - 11.3.2 Clarke Security enters into any arrangement with its creditors (other than on solvent terms) or goes into administration, receivership or liquidation or ceases to carry on business.
- 11.4 Termination of this Agreement does not affect the accrued rights of the parties as at the date of termination.

12 PAYMENTS ON TERMINATION

- 12.1 If this Agreement is terminated for any reason, the Customer must pay Clarke Security within 7 days of termination any outstanding balance of the Security Equipment purchase price and (if applicable) installation cost. If the Security Equipment price and/or installation cost is being paid by instalments, and Clarke Security agrees, the Agreement will remain in force in so far as it applies to the payment of the instalments and the Customer will continue to comply with its obligations in respect of payment of those instalment(s).
- 12.2 If this Agreement is terminated by Clarke Security for cause or by the Customer without cause during the Initial Monitoring Period (if applicable), if required by Clarke Security, the Customer must pay Clarke Security the balance of the monitoring fee that would have been payable by the Customer over the initial monitoring period if this Agreement had not been terminated, less the costs (as reasonably determined by Clarke Security) saved by Clarke Security no longer having to provide the Monitoring Services.
- 12.3 Termination of this Agreement will also automatically terminate any direct debit arrangement between Clarke Security and the Customer for payment of amounts under this Agreement (other than if the Equipment price and /or Installation Cost is being paid by instalments and Clarke Security agrees the Customer may continue to pay those amounts by instalment).

13 FORCE MAJEURE

- 13.1 Neither Party will have any liability under or be deemed to be in breach of this Agreement for any delays or failures of performance of this Agreement which result from circumstances beyond the reasonable control of that party.
- 13.2 The Party affected by such circumstances must promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.
- 13.3 If such circumstances continue for a continuous period of more than 6 months, either Party may terminate this Agreement by written notice to the other Party.

14 PROVISION OF INFORMATION AND ASSISTANCE

14.1 Each Party must provide to the other Party such information, co-operation and assistance as the other party reasonably requests from time to time to enable it to perform its obligations under this Agreement.

15 ASSIGNMENT

15.1 The Customer shall not assign, delegate, subcontract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without prior written agreement of Clarke Security which shall not be unreasonably withheld.

15.2 Clarke Security may assign or otherwise transfer this Agreement and all of its rights and obligations under this Agreement to any third party at any time without the Customer's consent.

16 ENTIRE AGREEMENT

16.1 This Agreement contains the whole agreement between the Parties in respect of the subject matter of this Agreement and supersedes and replaces any prior written or oral agreements, representations, or understandings between them relation to such subject matter.

16.2 The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

17 WAIVER

17.1 No failure or delay by either Party in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.

17.2 The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

18 SEVERANCE

18.1 If a provision of this Agreement would, but for this clause, be unenforceable the provision will be read down or severed to the extent necessary to avoid that result.

19 GOVERNING LAW

19.1 The laws of South Australia govern this Agreement.

20 NOTICES

20.1 A notice or other communication connected with this Agreement has no legal effect unless it is in writing.

20.2 In addition to any other method of service provided by law, the notice may be sent by pre-paid post to the address of the addressee as set out in this Agreement or sent by email to the email address of the addressee.

SCHEDULE 1

SPECIAL CONDITIONS

Provision applicable to all monitoring services and preventive maintenance

The Customer acknowledges and agrees that:

1. the Fees are based on the value of the Equipment and/or the Security Services and are not related to the value or nature of the Customer's property or the property of others located on the Premises.
2. Clarke Security is not an insurer and any insurance against loss or damage to property, business interruption and personal injury must be obtained by the Customer at its own cost. The Customer acknowledges and agrees that the Security Services and installation of the Equipment at the Premises are not and cannot be guaranteed to deter or prevent unauthorised entry, personal injury or loss or damage at the Premises; in addition to effecting and maintaining suitable insurance coverage, it is the Customer's sole responsibility to exercise at all times all reasonable precautions that can be expected from a prudent and diligent owner, controller, manager or occupier of premises.
3. The performance of the Equipment, the Pre-Existing Equipment and/or the Security Services can be affected by equipment and telecommunication services which are provided to the Customer by Carriers or other third party providers. Clarke Security shall have no liability to the Customer for Equipment, Pre-Existing Equipment or Security Services performance issues which are attributable to equipment and/or services not supplied by Clarke Security.
4. In particular, the Customer, acknowledges and agrees that Clarke Security will not be able to provide the Security Services until such time as the telephone line communication and/or digital mobile communication is restored.
5. The performance of the Equipment, the Pre-Existing Equipment and/or the Security Services may be affected by environmental conditions (separately or in any combination) such as weather (including, without limitation, rain, wind, storms and lightning), temperature, geographical location, humidity, dust, dirt, debris, insects, the presence of pets or other animals; Clarke Security is not liable in any way to the Customer for any defect, fault, damage or malfunction of the Equipment, Pre-Existing Equipment or Security Services caused by or contributed to by such environmental conditions.
6. The Customer is solely liable for ensuring that its actual or proposed use of Security Services and associated Equipment or Pre-Existing Equipment complies with all applicable laws and regulations, including, without limitation, those pertaining to surveillance and the privacy of individuals in which the monitored premises are located, and if required must ensure it has obtained the consent from all relevant persons, and displayed appropriate notices.

The Customer acknowledges and agrees that:

- (a) Clarke Security will not take any action on receiving a System Event except as specifically and explicitly directed by the Customer in the Monitoring Instructions;
- (b) the Customer is solely responsible to ensure that the Monitoring Instructions to Clarke Security are at all times accurate, consistent, current, correct and tailored to suit the Customer's individual requirements;
- (c) Clarke Security will use all due care and skill to comply with the Monitoring Instructions; and
- (d) any expenses charged by any Emergency Services notified by Clarke Security in accordance with this CSA must be paid by the Customer (including, without limitation, any false alarm), as referred to in clause 5.1 of this Agreement.

Wireless and IP monitoring

Provisions applicable to IP Monitoring.

- (a) IP Monitoring is connected to either the Customer's network or virtual private network. The service meets the requirements of AS 2201.5 Part 3.8 with regards to signalling security.
- (b) The IP Monitoring Interface sends the Customer's security data to Clarke Security using a network service. Typically this service is delivered using one of the following technologies: ADSL, cable modem, satellite, wireless broadband or frame relay. If the network connection is inoperable, impaired, congested, or if the Customer is in an area with restricted network access, then the data delivery may be affected.
- (c) During installation and Commissioning, all reasonable care will be taken by Clarke Security to not affect the overall operability of the Customer's network.
- (d) It is the Customer's responsibility to configure and provide all necessary IP network requirements prior to Clarke Security attending the Site.
- (e) If the IP Monitoring Interface is not transmitting any data (e.g. alarm and polling messages) over the primary network for any reason (including congestion or failure of the Customer's network), the data will only be transmitted if the security system has dual path capabilities and is configured for backup. The security system will not be monitored by Clarke Security until at least one communication link has been restored.
- (f) The IP Monitoring Interface is regularly polled by Clarke Security to ensure alarm path integrity. If the Customer does not have the required bandwidth available or bandwidth is reduced, the data (e.g. alarm and polling messages) may be delayed or lost.
- (g) The Customer is responsible for all the Telecommunication Network charges (including bandwidth consumption and excess usage charges) associated with the use of IP Monitoring Interface.
- (h) Should the Customer make changes to any Telecommunications Network settings which disrupt the IP Monitoring Interface's data transmission and as a result a technician is required to rectify the Security Services, Clarke Security's standard fees relating to a call out will apply and are payable by the Customer in addition to the Fees.
- (i) In the unlikely event of the IP Monitoring Interface affecting the Customer's Telecommunications Network, which may share the same network as other services, Clarke Security is not liable for any loss or damage, including consequential losses, caused by any Telecommunications Network failure, corruption or downtime.

Provisions applicable to Wireless Alarm Monitoring

- (a) If the Customer has Wireless Alarm Monitoring, Clarke Security will provide the Security Services via a cellular mobile Telecommunications Network.
- (b) The Customer acknowledges that the provision of Wireless Alarm Monitoring by Clarke Security may be interrupted and may not be error free.
- (c) Clarke Security shall not be liable for any loss or damage sustained or incurred by the Customer in the course of Clarke Security providing the Wireless Alarm Monitoring as a result of or in relation to the failure to receive or transmit any data or the receipt or transmission of incorrect data relating to or resulting from, whether directly or indirectly, any defect, limitation, error or malfunction in the Telecommunications Network.
- (d) The Customer agrees to use the SIM Card(s) provided by Clarke Security, unless otherwise agreed by Clarke Security.
- (e) The Customer acknowledges that the SIM Card(s) provided as part of the Wireless Alarm Monitoring will at all times remain the sole property of Clarke Security, along with any right of property or interest in, or title to, the SIM Card(s) and that Clarke Security will cancel the SIM Card(s) in the event that the Equipment or Pre-Existing Equipment is Decommissioned for any reason.

Provisions applicable to Smoke Alarm Services

Where the Customer has a smoke detector and a System Event is received, Clarke Security will use reasonable endeavours to contact the fire brigade if the Customer has specifically and explicitly requested such Emergency Services procedures as part of the Monitoring Instructions.

The Customer acknowledges that smoke detector devices:

- (a) are intended only to provide an early warning system in the event of fire or smoke;
- (b) are not intended for the purposes contemplated by, and do not comply with, AS1670.1-2004 Fire Detection, Warning Control and Intercom Systems, the Building Code of Australia and applicable legislation and Australian standards relating to fire alarm equipment and installation;
- (c) must be serviced in accordance with the manufacturer's specifications, and that it is solely the responsibility of the Customer to arrange such servicing. Clarke Security, on the written request of the Customer, can arrange servicing of the smoke detection equipment for an additional fee payable by the Customer; and
- (d) are not lifesaving equipment and must not be relied on by the Customer for the purposes of meeting any obligation under any Commonwealth or State legislation, Australian standards, local regulations or the Building Code of Australia or for insurance purposes.

Preventative Maintenance

Fees for preventive maintenance will be billed accordingly with current billing procedures. The Customer must carry out regular monthly testing of the Equipment and/or Pre-Existing Equipment and its connection, comply with all operating and maintenance instructions and applicable Australian Standards for the Equipment and/or Pre-Existing Equipment, and otherwise do all things reasonably required to maintain the Equipment and/or Pre-Existing Equipment in good working condition.

Australian Standards recommend the servicing of Equipment at least once every twelve (12) months in order to maintain it in effective working condition.

Equipment operation

The Customer must not place any direct or indirect obstacles in front of the Equipment or Pre-Existing Equipment as such action will either partially or completely restrict the effectiveness of the Equipment or Pre-Existing Equipment.