

### 1) INTRODUCTION

Chubb Monitoring Centre (CMC) carries on the business of monitoring alarms

### 2) DEFINITIONS

In this agreement the following terms shall have the following meanings unless the context otherwise requires.

- a) "Business Hours" means the period between 8am and 5pm on a Working Day.
- b) "CANCEL" signal means a signal sent by your alarm signifying that the alarm condition has been cancelled at your site.
- c) "CLOSE(D)" means that your site security system is armed.
- d) "Monitoring Services" means the service selected in the Schedule to this agreement, and described in Section 5 of these terms.
- e) "OPEN" means that your site security system is disarmed.
- f) "Patrol Company" means the Security Patrol nominated by you in the Monitoring Details Form in Section 4 of this Agreement.
- g) "Security System" means your security equipment installed on the Site.
- h) "Site" means the monitored site address contained in this agreement.
- i) "Emergency Contacts" or "Contact" means the person(s) nominated by you in your instructions which you may amend from time to time.
- j) "You" means you, our customer.
- k) "Your instructions" means the instructions contained in the Schedule to this agreement detailing the response procedures.
- l) "We or us" means Chubb New Zealand, its agents, contractors or assigns.
- m) "Working Day" means any day except Saturday, Sunday, a public holiday and the provincial anniversary day as observed in the region where the Site is situated.

### 3) VALIDITY

This agreement is valid when signed by an authorised representative of the Customer and accepted by Chubb

### 4) MONITORING SERVICES

We shall provide those services selected in the Schedule to this agreement as follows:

- a) Monitoring Services will not commence until a monitoring connection has been established and verified from the Site and all sections of this agreement have been completed and accepted.
- b) If your instructions include advising your nominated Patrol Company in the event of an alarm, then we shall make reasonable efforts to advise that Patrol Company of the actionable alarm in accordance with the response services selected.
- c) If your instructions do not include a nominated Patrol Company, CMC will not request a patrol to attend unless specifically authorised by your Site Contact who understands that a patrol company may choose not to attend when there has not been a prior arrangement for them to do so.
- d) If you have requested that we contact an Emergency Contact we will make reasonable endeavours to notify your Emergency Contact in the event of an alarm.
- e) If the Site appears to have been rendered insecure and we have not been requested by you to contact a Site Contact or if your Contact is not contactable, then you authorise us at your cost to take whatever action we, in our sole opinion, consider necessary to secure the Site including (but not limited to) engaging tradesmen such as locksmiths, glaziers and carpenters, to carry out repairs to the Site or if we consider such tradesmen unavailable or inappropriate, stationing a static guard at the Site until the commencement of the next working day. You will pay us for all costs incurred in securing your Site including subcontractors and static guards together with all materials utilised by such subcontractors within fourteen (14) days of presentation of invoice by either us or by the subcontractor concerned.
- f) If an intruder alarm signal is followed by an OPEN or CANCEL signal prior to the initiation of response services for the alarm, our response to that alarm will be deemed to be cancelled.

### 5) DURATION AND CANCELLATION

- a) Your Monitoring Services will be for a minimum fixed term of 36 months unless otherwise stipulated in the schedule.
- b) You may cancel your Monitoring Services during the term of this agreement by making payment to us for the full unexpired portion of the agreement and payment of any arrears.
- c) You may cancel your monitoring service from the expiry of your 36 month term by giving one calendar month prior notice in writing.
- d) At the expiry of your initial 36 month term if we have not received written prior notice of cancellation, this agreement for the provision of Monitoring Services will be deemed to be renewed on a month to month basis.
- e) You acknowledge that on cancelling your Monitoring Service you will need to have the Site's Security System decommissioned (disconnected) from the telephone line within 7 days of cancellation at your cost. Failure to do so may result in excessive carrier call charges in certain events (such as, low battery signals).
- f) We may cancel or suspend your Monitoring Service where you fail to complete and return any necessary documentation or where you allow your Security System to operate or be operated in a way which causes false alarms. In this situation we will endeavour to advise you 14 days before we cancel or suspend your Monitoring Service to allow you time to remedy the problem. We may reinstate the Monitoring Service once you have notified us that the fault has been remedied.
- g) If at any time we are unable to procure or retain the rights necessary for the transmission of signals between your Site and our CMC, the Monitoring Service may be cancelled.

### 6) OUR RESPONSIBILITIES TO YOU:

- a) All reasonable efforts will be made to ensure that the Monitoring Services we have agreed to provide are delivered to you as agreed. Where we are unable to achieve this we will make reasonable efforts to inform you.

### 7) YOUR RESPONSIBILITIES TO US:

- You agree to:
- a) Provide and maintain an appropriate source of electricity as well as a fully operational telephone line at the Site, at your cost. A fully operational telephone line means a telephone line without any interference or interruption which may impede monitoring signal traffic.
  - b) Not cause false alarms through misuse by any person operating your system, or allow animals or other persons to activate the system while it is armed.
  - c) Inform us of changes to your address, contact names, telephone numbers, or Patrol Company in writing or by fax as soon as they occur.
  - d) Notify us (as soon as possible) prior to any change to the Site Address and you further agree to arrange and pay all costs associated with the relocation and installation of your Security System to the new Site, reconnection of your monitoring and response equipment and reconnection to a suitable network, power supply and telephone line.
  - e) Obtain consent from the owner of the Site where Monitoring Services are required in sites not owned by you. You agree that we will be indemnified against any claims which the owner of the Site may make with regard to the provision of the Monitoring Services.
  - f) Return all Chubb SecurityNet & RadioNet equipment (where installed), or provide reasonable access so that we may recover all Chubb SecurityNet & RadioNet equipment, in the event your Monitoring Services are cancelled.
  - g) Make all payments due to us when they are due.
  - h) Take all reasonable care of the Security Equipment and advise us as soon as you are aware of any component being damaged, not working correctly or stolen.
  - i) Ensure our personnel and agents have full and safe access to the Site at all relevant times for the purpose of providing the services or repairing or replacing SecurityNet & RadioNet equipment if installed.
  - j) Immediately notify us if at any time the configuration of the Security System changes from that applying at the date of this agreement.
  - k) Make sure all information you give us is correct and complete.
  - l) Follow the instructions we provide about using our services and only use them for lawful purposes.
  - m) Pay for dispatched patrols, when they are notified to attend by us, even when subsequent to dispatch you cancel the dispatch.

### 8) PRICE AND PAYMENT FOR YOUR MONITORING SERVICES

- a) The current monthly GST inclusive price for the provision of Monitoring Services is detailed in the Schedule. We may, after the first year, and on one month's written notice increase the monthly price for Monitoring Services.
- b) You agree to pay all charges in advance for the Monitoring Services provided to you according to the agreed method, term and dates. Where automatic bank authority forms have not been completed and returned to us your account will be charged by monthly invoice until the bank forms have been received.
- c) If payment is not received by its due date, you acknowledge and agree that we may suspend or cancel the Monitoring Services and any other security service we provide.
- d) If we have to suspend services the maximum period will be for three months and this will extend the expiry term of this agreement by that same period.
- e) You will be liable for any costs we incur enforcing these terms.

### 9) OUR LIABILITY TO YOU

- a) We will indemnify you against all direct loss, cost, liability, damage, or expense incurred by the Customer as a result of any negligence or wrongful act or omission of us or our officers, employees or authorized agents.
- b) This indemnity shall not extend to cover any loss, cost, liability, damage or expense which is attributed to or caused by the acts or omissions by you or your officers, employees, contractors, agents or by any third party.
- c) Notwithstanding anything else in this agreement, we shall not be liable for:
  - i) any indirect, consequential, special or economic loss, cost, liability, damage, or expense howsoever arising; or
  - ii) any loss of profit, loss of use, loss of income, loss of rental or other benefit, loss of production, loss of actual or potential business opportunity or loss to reputation
- d) Notwithstanding anything else in this agreement, our liability under this agreement shall not exceed:
  - i) \$2,000 in respect of any one incident of loss or series of related incidents
  - ii) \$6,000 in aggregate in respect of incidence of loss occurring in any 12 month period.This limitation does not limit (unless the goods or services are provided or acquired for business purposes) any rights you may have under the Consumer Guarantees Act 1993.
- e) The warranties contained in the Consumer Guarantees Act 1993 will not apply to our services or goods provided under the agreement when they are acquired for business purposes.

### 10) EXCLUSION OF ALL OTHER LIABILITY BY US TO YOU

- We have set out your rights to claim compensation from us. We exclude all other liability we may have to you. This exclusion also applies for the benefit of these people:
- a) our related companies;
  - b) any agents or subcontractors, employees and everyone else those people we are responsible for;
  - c) anyone else we authorise to perform our responsibilities under any agreement you have with us. None of us is liable to you or has to pay you for anything else caused by or resulting from any thing, any of us does or does not do, or delays in doing, whether or not it is contemplated or authorised by the agreement you have with us;
  - d) This exclusion applies whatever you are claiming for and however liability arises or might arise if it were not for this clause; and
  - e) This exclusion (unless the services or goods are provided or acquired for business purposes) does not limit any rights you may have under the Consumer Guarantees Act 1993 (NZ).

## 11) CREDIT CHECK

Chubb may disclose your personal information (eg name and address) to credit agencies for the purpose of checking your credit worthiness. You acknowledge that acceptance of this agreement by us is subject to our sole discretion in being satisfied with the results of any check carried out by a credit agency.

## 12) PERSONAL INFORMATION

- a) By entering into this agreement, you agree that unless indicated otherwise, we may forward to you from time to time promotional material and information regarding any of our security goods and services.
- b) We collect your personal information for the purpose of providing you with the services under this agreement and information regarding our security products and systems in accordance with relevant legislation. We may disclose your personal information to other organisations that assist us in the provision of these services including related bodies corporate, subcontractors and relevant banking or financial authorities. You may view our privacy statement and policy at [www.chubb.co.nz](http://www.chubb.co.nz)

## 13) NOTICES AND CORRESPONDENCE

We will send all notices to you either to the last postal address or fax number you have provided.

## 14) CHANGES TO OUR TERMS OF BUSINESS.

Our terms may be changed by one month's written notice in writing to you. If any term(s) are held to be invalid for any reason, this will not affect the validity of the remaining term.

## 15) INDEMNITY

You indemnify us against any loss, damage, cost or expense suffered by us as a result of any failure by you to perform your obligations under this agreement.

## 16) ASSIGNMENT

You will not assign your rights or transfer your obligations under this agreement without our prior written consent. We may transfer or assign all or part of our rights or obligations without your consent. We may subcontract the performance of all or any part of this agreement.

## 17) WAIVER

- a) No right under this agreement shall be deemed to be waived except by notice in writing signed by both of us.
- b) A waiver by us will not prejudice our rights in respect of any subsequent breach of this agreement by you.
- c) Any failure by us to enforce any clause of this agreement or any forbearance, delay or indulgence granted by us to you, will not be construed as a waiver of our rights under this agreement.

## 18) ENTIRE AGREEMENT

This agreement constitutes the entire agreement between you and us for the provision of the Monitoring Services. Any prior arrangements, agreements, presentations or undertakings are superseded. No modification or alteration of any clause of this agreement will be valid except in writing signed by both of us.

## 19) SEVERABILITY

If any provision of this agreement is held invalid, unenforceable or illegal for any reason this agreement shall remain otherwise in full force apart from such provision which shall be deemed deleted.

## 20) FORCE MAJEURE

- a) A Party ("Affected Party") is not liable for any failure to perform an obligation (other than to pay money) under this Agreement caused by any of the following events ("Event");
  - i) war, riot, insurrection, vandalism, sabotage, national emergency (whether in fact or law), piracy, hijack or act of terrorism including the use or threatened use of violence or act putting the public or any section of it in fear, for political purposes or for furthering an ideological aim;
  - ii) strike, lockout, ban, limitation of work or other industrial disturbance; or
  - iii) any other occurrence outside the control of the Affected Party or its employees, agents, licensees, franchisees, contractors or servants.
- b) The Affected Party must notify the other party as soon as practical of any anticipated delay or failure caused by an Event.
- c) The performance of the Affected party's obligations under this Agreement is suspended for the period during which the Affected Party is reasonably prevented from performing an obligation which is caused by the Event ("Delay") and the Affected Party is not liable for any loss or damage whatsoever suffered by the other party during suspension.

## 21) TERMINATION

Without limiting the generality of any other clause in this agreement, we may terminate this agreement immediately by notice in writing if:

- a) Any payment due from you to us pursuant to this agreement remains unpaid for a period of seven (7) days from invoice date.
- b) You breach any other clause of this agreement and such breach is not remedied within thirty (30) days of written notice by us;
- c) If any action by you prevents us from providing the Monitoring Services for a period exceeding 30 days.
- d) Either party may terminate this agreement immediately on notice in writing to the other if:
  - i) the other party goes into liquidation or a receiver of statutory manager is appointed in respect of the other party or the other party makes any assignment to, or enters into an arrangement for the benefit of its creditors,
  - ii) the other party being a partnership goes into liquidation or a receiver of statutory manager is appointed in respect of the other party or the other party makes any assignment to, or enters into an arrangement for the benefit of its creditors
  - iii) the other party, being a natural person, dies.
- e) If notice of termination is given to you we may, in addition to terminating this agreement:

- i) retain any monies paid.
- ii) charge a reasonable sum for work performed in respect of which work no sum has been previously charged.
- iii) be regarded as discharged from any further obligation under this agreement.
- iv) pursue any additional or alternative remedies provided by law.
- v) charge you for the service fees that would have been payable by you to the end of the term of this agreement.

## 22) YOU ACKNOWLEDGE

- a) That the services provided under this agreement may not prevent the Site being rendered insecure, accordingly you accept that loss or damage to property and death or injury to persons may occur even though we have made reasonable endeavours to satisfy the obligations under this agreement.
- b) We shall not be required to supply performance records, history or other reports to anyone other than you.
- c) That the fees set by us under this agreement are based solely on the value of the services provided and are not related to the value of your property or the property of others located on the premises. We are not an insurer of the premises other property or risks, and the Monitoring Services cannot be guaranteed to prevent all or any unauthorised entry, loss or damage at the premises and it is strongly advised that You effect and maintain all normal and prudent insurance policies for all usual risks, including fire, burglary, damage and destruction.
- d) You acknowledge and agree that we may not respond to subsistence alarms (as defined in AS 2201.2-2004 including but not limited to battery low alarms) and low priority alarms (as defined in AS 2201.2-2004 including but not limited to late-to-close, mains fail or timer test failures) within the time specified in the AS 2201.2-2004 and that subsistence alarms and low priority alarms may be actioned by an automatic process prior to operator intervention (including but not limited to letter, email, SMS, for fax). We will not be liable if the automated response is not received by you due to a reason outside our control.
- e) You have been informed by us that if you have chosen to have your alarm signals transmitted to us through your telephone line, we will not be aware of any communications failure if your telephone line is severed, faulty or disabled between your Security System and us until the next time the Timer Test signal sent by your panel at a pre-scheduled time each day is not received by the end of the expected time period and that we will not be able to monitor your Security System until such time as your telephone line is restored.
- f) You have been informed that it is your responsibility to regularly test your Security System in a fully secured condition to ensure that it sending the correct signals to us.
- g) You agree that the provision of Monitoring Services may include you incurring charges from your telephone service provider due to regular test and alarm calls made from your Security System to CMC. You acknowledge that you will be liable to your service provider for all communication costs incurred.
- h) You confirm that you have been advised of the different monitoring technologies available and that you have chosen the monitoring technology specified in this agreement.
- i) We cannot take any steps on receiving an alarm except as directed by you and specified on this agreement.
- j) Any expenses or fees associated with any Emergency Service request action to the Fire Service or Police including charges made by the Fire Service or NZ Police must be paid by you directly to the requested emergency service provider.
- k) If you have chosen a BusinessWatch Plus service and your alarm OPEN and CLOSE signals are regularly outside the given schedules, you agree that we can extend your schedules to include your regular alarm OPEN and CLOSE times. We will notify you in the event that we have to adjust your schedules.
- l) The CMC can only monitor signals it receives from your Security System. Failure to receive intruder alarm or any other signals does not constitute a breach of this agreement.

## 23) IP MONITORING

- a) With IP monitoring your security system sends its signals to CMC through a connection to either your network or Virtual Private Network. Dial-up internet access is not a suitable medium for alarm monitoring purposes.
- b) The IP monitoring service interface sends your security system data to CMC 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 you are in an area with restricted network access, or if you suffer a power failure then the delivery of your security system data may be affected.
- c) During installation and commissioning all reasonable care will be taken by us to not affect the overall operability of your network.
- d) It is your responsibility to provide all network requirements prior to our arrival to commission IP monitoring and on an ongoing basis.
- e) If the IP interface is not transmitting any data (e.g. alarm and polling messages) over the primary network for any reason (including congestion or failure of your network or modem) the data will only be transmitted if your security system has dialler capabilities and is configured for dialler backup. You acknowledge that if the dialler backup option has been severed or cut we will not be aware of any communications failure if your telephone line is severed, faulty or disabled between your Security System and us until the next time the Timer Test signal sent by your panel at a pre-scheduled time each day is not received by the end of the expected time period, and that we will not be able to monitor your Security System until such time as at least one communication link has been restored.
- f) The IP monitoring interface may be polled from CMC to ensure alarm path integrity. The polling period results in bandwidth traffic of less than 11 Mb per month. In response to alarm events, IP Monitoring Interface sends a message to CMC, the resultant data bandwidth traffic is under 50 Kb per month. If you do not have the required bandwidth available or bandwidth is reduced, the data (e.g. alarm and polling messages) may be delayed or lost.
- g) You are responsible for all the primary network charges (including bandwidth, consumption and excess usage charges) associated with the use of IP Monitoring Interface on your network.
- h) Should you make any changes to any network setting which disrupt IP Monitoring Interface data transmission and as a result a technician is required to rectify the service our standard fees relating to a call-out will apply.
- i) In the unlikely event of IP Monitoring Interface affecting your network (which may share the same network as other services) we are not liable for any loss or damage, including consequential losses, caused by network corruption or downtime.