

Terms and Conditions – Smart IT Pty Ltd (and Boss Surveillance Systems)

General Terms and Conditions: The following clauses are applicable to all orders, purchases of equipment and products, and consultancy services for Customers including those on a Managed Service Provider (MSP) Agreement with Smart IT Pty Ltd.

1. These Terms and Conditions are for all Customers commissioning Smart IT Pty Ltd trading as Boss Surveillance Systems, to undertake consultancy services and/or provide products.
2. Smart IT Pty Ltd endeavours to ensure all products and services are provided to the Customer as agreed upon, and Smart IT Pty Ltd is bound by laws governed by State and Federal policies. All efforts to provide exceptional customer service is what we pride ourselves on.
3. Boss Surveillance Systems is a division of Smart IT Pty Ltd.
4. **Boss Surveillance Systems Rates** are outlined in the Boss Surveillance Agreement for all security camera installations and service plans.
5. **Definition of the term Agreement** used throughout this document is referred to as an Agreement and acknowledgement between Smart IT Pty Ltd (ABN 99 135 232 923) and the Customer. The **definition of the term Customer** used throughout this document and Agreements is the party that commissions Smart IT Pty Ltd (and/or Boss Surveillance Systems) to provide such services or products as a supplier.
6. Smart IT Pty Ltd is a Managed Service Provider (MSP), and offers a number of different options for IT support and maintenance. These come under our **MSP programs: MSP Essential, MSP Corporate and MSP Premium**. Each program level has options that help cater for individual needs. The **MSP Essential** is for the Customer requiring light monitoring of IT alerts. **MSP Corporate** is for a more pro-active approach and caters to a larger degree of IT support needs. **MSP Premium** is a program to cater for larger IT requirements and devices. **MSP Corporate** is available at both non-agreement and **MSP Agreement** arrangements, and **MSP Premium** is offered under a **MSP Agreement**. Agreement rates meaning is additional hourly rates are discounted.
7. Also under our **MSP Programs** is **Smart Offsite Backup Manager-Cloud Services** for data replication. Fees are charged for the license of the backup service based on a 'per 100GB' of data. This fee is for the service of offsite backup and monitoring. This is a backup off-site service and monitoring service only. Additional charges are applied for time taken to remedy any issues. **NB:** Data services are as per your ADSL service with your ISP and is separate to the license service provided under this service. A once off fee is charged to setup the off-site backup service, with a monthly fee for the service is charged.
8. **All MSP Programs are payable in advance for the month of service.** Smart IT Pty Ltd reserves the right to suspend services if the Customer fails to make payment for the month of service by the due date. Smart IT Pty Ltd allows up to 4 days grace period following the due date to allow payment to be received. Any additional hours for support or maintenance is charged accordingly as per Program agreed upon and is invoiced at the end of the month of service.
9. In the context of a **'Managed Service Provider (MSP)' Agreement**, the Customer is the party who has agreed and signed the said Agreement and agrees to these Terms and Conditions in its entirety. These **MSP Agreements** are based on a minimum of 12 months. Please see next section for more detailed Terms on **MSP Agreements**. **MSP Service Agreements** offer managed IT services to monitor, manage and maintain your IT hardware at discounted agreement hourly rates. If a **MSP Agreement** is not in place, hourly rates revert to Ad-Hoc Fee Rates.
10. The **Smart MSP Essential** program is available as a service on month-by-month basis. **Smart MSP Essential** program is on a monthly fee **paid for in advance to the month of service**. Requested support and maintenance is additional at Ad-Hoc rates and is charged at the end of the month of service.
11. Any **purchase orders** cancelled will attract a 25% cancellation and restocking fee of the list price value of the hardware/software and systems of the purchase order cancelled. Delivery times as stated are valid at the time of the quotation and must be re-confirmed at the time of the order placement.
12. Smart IT Pty Ltd **quotes** are valid for a period of 7 days and all prices/conditions are subject to change.
13. All **prices** are ex-works (out of Brisbane location) Brisbane QLD, Australia and do not include any freight, handling, insurance, installation, power or data cable commissioning, power services, communication equipment and or training unless specifically stated within either a quotation or the invoice.
14. In most instances, Smart IT Pty Ltd provides a **Quote** detailing goods and services and upon acceptance by the Customer, it is to be signed as an acceptance of such order. An invoice will be generated to confirm your order, and is payable under the Terms and Conditions, or otherwise stated on the invoice. (Your company Purchase Order requires brief notable identifiable references to specifics relating to the quotation/submission, ie Quote No. and/or Description of items.) Smart IT Pty Ltd will only provide ALL orders upon receiving an official **Purchase Order Number and or signed Quotation form**, via email, fax, or hand-delivered.
15. **CCTV equipment projects** requiring a Scope of Works (installation and cabling contract) associated with **BOSS Surveillance Systems** quotations and costs, come under a separate **Minor Works Contract**, as outlined in separate documentation.
16. **Projects 'outside' the Brisbane Metropolitan area** (to and from Brisbane) will incur all associated travel costs and accommodation expenses as applicable on top of the applicable hourly rate.
17. All prices on Quotes and Invoices generated by Smart IT Pty Ltd, show both the ex GST amount and a GST inclusive amount. Payment must be received and funds cleared for all orders to be processed for equipment and products as per our Invoicing Price Payment Schedule (below).
18. **Price Payment Schedule for invoicing:** For projects priced at less than **\$30,000 inc GST** - a deposit of 100% on all hardware components and any software licenses, freight charges, and 50% on services and/or consultancy fees is required to process the order, with the balance strictly COD of works completed. For projects priced greater than **\$30,000 inc GST** - we invoice on two invoices- Claim 1 is 75% of total inc GST as a deposit to process order, with the balance COD on a separate invoice as Claim 2 at completion of works (25% remaining, plus any variances if applicable).
19. **All Invoices** are to be paid by the specified due by date.
20. **Overdue Invoices**, attract a finance fee of 10% per month for each month an amount is outstanding until the amount is paid in full. To help avoid any fees incurring on your account we encourage the Customer to utilise the **merchant card transaction facility** in place by paying with a debit or credit card. And for those who have regular ongoing monthly fees for services, we encourage our Customers to setup a **direct debit** transaction from your account on the due date of each month, to make payment directly to Smart IT Pty Ltd.
21. Acceptance of Quotations and payments received for Invoices, deem the Customer to have agreed to these **Terms and Conditions**, contained herein.
22. **Title and ownership** of goods remain in the name of Smart IT Pty Ltd until invoice(s) for those goods is/are paid in full and funds cleared and duly honoured. Smart IT Pty Ltd has the right to demand back equipment and goods if payment in full has not been met in accordance with these Terms and Conditions.
23. **Return Policy:-** All goods are return to base warranty in accordance with manufacturers' warranties, or as otherwise stated. Any goods delivered that are deemed D.O.A. (dead on arrival), it is the responsibility of the Customer to inform Smart IT Pty Ltd within 48 hours, and make suitable arrangements for return and exchange of these goods. Goods must be returned in their original condition and are subject to the warranty provided by the manufacturer.
24. Smart IT Pty Ltd provides a **90 day warranty on workmanship** that is undertaken on services carried out as per Scope of Works and invoiced. All additional services outside of the Scope of Works is charged accordingly.
25. Legal activities and processes will be taken by Smart IT Pty Ltd, in its sole discretion, if a Customer **fails to make any payment** due under these Terms and Conditions, and or fails to make good any wrongs caused by the Customer. Smart IT Pty Ltd has the right to refuse to make further supplies to the Customer, and/or terminate any further works or contact if the Customer fails to make any payments due to Smart IT Pty Ltd.
26. **Dispute Resolution Policy:** In the first instance, the parties to the dispute will discuss the dispute to attempt, in good faith, to reach agreement or otherwise resolve the dispute. Both parties will attempt to resolve the matter within 5 working days of its first meeting. Any resolution shall be in the form of a written agreement, subject, if necessary, to ratification by management of both parties. If firm but fair negotiation does not resolve the dispute, alternative forms of dispute resolution such as a engaging a qualified mediator / arbitrator and/or legal expertise will ensue.
27. Smart IT Pty Ltd has the right to refuse to make further supplies to the Customer, and/or terminate any continued works or contact with the Customer if it deems it necessary to remove itself from **commercial dealings**.
28. **Software licenses** sold to Customers are strictly subject to the Terms and Conditions supplied by the software developer/product manufacturer. Customers must adhere and abide to the software license Agreements that are packaged with the software, and may be separately executable by the Customer. Software licenses are not returnable.
29. Customers acknowledge that Smart IT Pty Ltd is bound by **confidentiality Agreements** between **their suppliers**, and at no time disclosure of confidential information such as Agreements, contracts and purchasing quantities and amounts are given to any third party.
30. Smart IT Pty Ltd uses a specified **Remote Login Software** which allows Smart IT Pty Ltd to access remotely individual workstations and servers to undertake jobs required, and a **Web Based Job Ticketing System** to undertake support for each Customer. The remote support software is installed onto each workstation and server requiring maintenance and support and access is granted to the web-based ticketing system. This provides an affordable, and time efficient method to provide IT support. This is at a minimal cost to the Customer per workstation and server as the case may be, on a month by month basis, or annually on an **MSP Agreement**.
31. The **Web Based Job Ticketing System** which allows communication to manage IT Support requests is the preferred **method of all IT support requests**. It is the responsibility of the Customer to ensure that the true and accurate description of the required tasks is logged into the system for the Smart IT Pty Ltd staff members to action. It is understood that **ALL** requests and enquiries regarding any issues to the network, hardware, workstations, or other devices and issues, are to be entered by relevant staff members of the Customer into this system for support requests. Smart IT Pty Ltd requests Customers to have in place a **policy and procedure for their personnel** to follow regarding this Job Ticketing System. It is expected that telephone calls and emails to Smart IT Pty Ltd staff will therefore be minimised and be limited to emergency issues only, or unrelated general issues by management only.
32. It is the Customer's responsibility to ensure **back-up and data protection systems** are in place to minimize the impact of any untoward circumstances of damage to equipment and data in all such events. Smart IT Pty Ltd recommends that business critical data is saved and backed up daily. Offsite data backup should also be undertaken at least once a day for data such as accounting files. It is also advantageous to do several backups during a business day of your accounting files in the event of the application failing and corrupting. Smart IT Pty Ltd is not responsible for third party software.
33. Smart IT Pty Ltd are not responsible for the costs associated for **any installation and commissioning of data and electrical cabling, power supply, power supply upgrades, and/or power protection** required for a new installation or any repairs that may be required at a Customer's site. These services are separately undertaken by sub-contractors, either appointed by the Customer or sourced by Smart IT Pty Ltd. These costs are borne by the Customer accordingly.
34. All **electrical cabling and data points** that are established prior to the commencement of installation by Smart IT Pty Ltd, are the responsibility of the Customer and any issues found by Smart IT Pty Ltd staff/contractors during an installation, that are relating to the electrical cabling and data points will be reported to the Customer.
35. It is expected that **cabling, connections and electrical wiring for network equipment** is labelled correctly and clearly prior to Smart IT Pty Ltd personnel or sub-contractors attend to site works. Any delays or disruptions caused by lack of identified labelling of cables/connections for Smart IT Pty Ltd to undertake it's appointed scope of works will be charged accordingly.

36. Customers must provide clean, suitable UPS protected and regulated mains power and terrestrial data connection/network (if required) as well as a suitable earth point for lightning protection as required and/or requested by Smart IT Pty Ltd or its agents adjacent to the installation.
37. Smart IT Pty Ltd reserves the right to invoice the customer for **additional contractor labour and/or materials required due to unforeseen circumstances** arising from issues or delays such as difficult access to building features, any third party personnel causing disruptions or delays, or any other unexpected disruptions that causes additional tools down or additional labour time.
38. All equipment, particularly servers are recommended to be maintained in a constant clean, cool and minimal humidity environment, to help prevent undue damage and help to increase the life-span of same. Any costs involved due to damage caused by neglect of the Customer will be charged accordingly to the Customer to remedy the cause or replace equipment. It is the responsibility of the Customer, to ensure all due diligence is provided in maintaining the hardware and equipment installed.
39. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any and all of the network components if and when a **Customer logs into the system** or network in any way and changes (accidentally or directly) any part of the configurations of the network or workstations or servers, that have been configured by Smart IT Pty Ltd.
40. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any and all of the network components if a Customer appoints and allows another **third party access to the network**, and/or introduces new hardware or software and/or configurations. If in the event any network, hardware and or software, that has been added to the network or changed, by the Customer or a third party without prior knowledge and acceptance of Smart IT Pty Ltd, any costs associated with the remedy or repercussions of such problems or issues will be borne by the Customer.
41. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any **third party software programs that the Customer has installed on any or all computers and servers**. (Examples are programs such as Quickbooks, MYOB, Adobe, and any other third party or purposely built software program that the Customer relies on to operate their business.) Support for any issues that arise from software programs is to be requested by the Customer to the appropriate Vendor of such programs. If in the event any network issues arise due to the failure of any programs that may cause disruption, hardware and or software conflicts, that result in any costs associated with the remedy or repercussions of such problems, these costs will be borne by the Customer. This also includes circumstances where a roll-out of new hardware and operating systems take place, such as server rebuilds or new servers are installed. It is expected that the Customer makes every effort to provide relevant software discs, licences if required and to ensure necessary support from these Vendors is provided to Smart IT Pty Ltd if and when required to assist in a smooth roll-out. Whilst every effort is made by Smart IT Pty Ltd to help with technical difficulties that software conflicts may cause, it is understood that technical assistance must be from the Vendors of the third party software. *Time taken for Smart IT Pty Ltd to confer with third party software vendors/developers to assist in remedying issues will be charged accordingly to the Customer.*
42. **Third Party applications** that are monitored for alerts under our **MSP programs** referred to in our MSP agreements as **Defined List of Third Party Applications** are: Adobe Reader, Java, Firefox, Quicktime, Shockwave, Opera, Winzip, iTunes, Skype, WinRAR, Chrome, Safari, Adobe Flash. *All other third party software is excluded.*
43. Smart IT Pty Ltd will not be held responsible or liable for any **disruptions to Customer's businesses, either monetary, physical or consequential** to any computer or server function, data or telephony communication devices, and network traffic that may arise from either a **natural disaster or other human error (including neighbouring tenants), Customer neglect, third party software failure, file corruption or conflict, or by a third party business such as your ISP provider, or Telco provider, or any other individual entity who is not part of Smart IT Pty Ltd.** This clause applies also when Customer's make decisions and incorrectly prioritise tasks and projects that may result in disruptions and unwanted consequences. In the event, that Smart IT Pty Ltd is called to help diagnose problems that are caused by any of the above, an appropriate charge for time spent will be issued to you the Customer.
44. Smart IT Pty Ltd expects and advises the Customer to have in place an **Acceptable Usage Agreement**, or guidelines in their policy and procedures, for its employees and end-users of workstations on the network, regarding exercising **duty of care** when using their workstations, and/or accessing the web. The expectation is in both the prevention and the **protection against exposure to harmful data** to their network and/or workstations similar guidelines as part of their policies and procedures. This can be in any or all forms such as via web, internet, intranet, emails, websites of any kind including social media sites, USB ports, CD/DVD-ROM drives, portable drives or laptops. The expectation is the Customer also has installed and maintains appropriate **licensed anti-virus software** on all such devices with scheduled regular updates automated. Smart IT Pty Ltd will not be held responsible for any **disruptions to business, either monetary, physical or consequential** to any computer or server function, data or telephony communication and network traffic that may arise, and is not limited to all forms of origins such as, from viruses or any other malicious or intrusion executable files that have been introduced to the hardware and/or network, in any way, accidentally or directly, from downloads, programs, cookies from websites, executable files from websites, data sharing, opening of files from devices, or loading executable files onto any part of the network. **Smart IT Pty Ltd is not responsible for the functionality, reliability or performance of any anti-virus software program or device.**
45. **Fees for IT Support are charged according to level of support** required and whether it is business hours, after hours or emergency. Please see Fee Chart below.
46. **Fees for CCTV Maintenance are charged according to CCTV equipment** requiring attention. See separate Boss Surveillance Systems Fee structure and Agreement Plan rates.
47. Travel Charges will apply when **outside of 35kms/ and or 45 mins of travel time** from Brisbane Metropolitan area. Travel charges for all support requests will be charged to the Customer at a cost of \$60.00 plus GST as a **Travel Fee Cost**. And if applicable all associated costs if located in regional/country or interstate areas will incur such associated travel costs to and from site from Smart IT Pty Ltd's Brisbane office, plus accommodation and other related expenses.
48. Costs associated with all **website development and social media**, a payment of 50% is required upon acceptance of the Quotation, and a subsequent invoice generated, prior to commencement of any work undertaken, with the balance owing paid prior to the site going live on the internet. See also separate Website Agreement Terms.
49. If the Client requires Smart IT Pty Ltd to assist in the updating of the **client's website** ie any website administration needs, edits or image replacements, then this must be by way of instructions in writing, to Smart IT Pty Ltd by one delegated personnel member. These instructions need to be clearly set out in writing detailing relevant areas of the website that requires Smart IT Pty Ltd to perform relevant tasks, such as content to be added or removed or edited. No edits or removal of pages, content (text or images) will be done unless the Customer instructs Smart IT Pty Ltd to do so in writing. It is up to the Customer to request in writing to have old content removed. All text and images are to be supplied by the Customer to Smart IT Pty Ltd. Payments for all edits, additions and administrative tasks are to be paid C.O.D. of invoice supplied.
50. It is **understood that all websites, no matter what platform they are built on, or ISP they are hosted with, are open to the potential of being hacked.** Whilst every effort is made by website developers and ISPs hosting the website, in the prevention of such malicious acts occurring, it isn't something that can be guaranteed from not occurring. All websites once they are open on the world-wide web known as the internet are potentially open to hackers worldwide. Therefore, Smart IT Pty Ltd will not be held responsible or liable for any direct or consequential damages if such an occurrence happens. To remedy the intrusion, whatever task that may result in, will be at a cost borne by the Customer.
51. Periodical version upgrades of **website platforms** (approximately yearly) will incur additional charges to implement. (These upgrades albeit are optional, however are highly recommended due to the security risks and website stability. We recommend therefore they are implemented as they become available.)
52. **Telco & Hosting Fees**, including and not limited to, **ADSL, website hosting and Hosted Exchange**, are required to be paid in advance to the month of service provided, by the due date specified on the invoice. Smart IT Pty Ltd, at its sole discretion, may disconnect these services if payment is not made by the Customer within 3 business days of due date. *See individual separate T&C for each of these services and contract agreements.*
53. **Agreements:** Agreements for Boss Surveillance Systems **CCTV Maintenance Checks (Plans 1,2,3 and 4)**, and **Smart IT Pty Ltd's MSP Agreements** are both of a minimum of 12 month period.
54. Either party may **terminate an Agreement** with a 30 day written notification to the other party. In the event the Customer terminates the Agreement, payment of all outstanding monies is due by the Customer and an **Early Termination Fee** of 50% of the balance of the remaining 12 months will be applicable and chargeable to the Customer and payable by no later than the 30th day after notification of the termination of services. **Early Termination by the Customer may only occur after a minimum of 3 months into the Agreement.** If in the event, Smart IT Pty Ltd determines to cancel the Agreement with the Customer, and provides 30 day written notification, this **Early Termination Fee** is waived however current costs for current month is fully payable and any other outstanding invoices are also required to be paid in full. Agreements are subject to legal procedures – see Legal Understandings later in this document.

Smart IT Pty Ltd - MSP Agreements – Additional Specified Terms and Conditions

1. The preceding General Terms and Conditions form part of the Smart IT Pty Ltd **Managed Service Provider (MSP) Agreement**, and are applicable for all works that may not be under these Specified Terms and Conditions. **The above General Terms and Conditions are to be read in conjunction with the following clauses** as defined as being the more specific Terms and Conditions for Agreements. Some clauses above are purposely duplicated below.
2. **Definition of the term Agreement** used throughout this section of the document is referred to as an agreement and acknowledgement between Smart IT Pty Ltd (ABN 99 135 232 923) and the Customer. The Agreement is referred to being the signed MSP Agreement. The **definition of the term Customer** used throughout this document is the party that commissions Smart IT Pty Ltd to provide such services or products as a supplier, and in the context of an Agreement, the Customer is the party who has agreed and signed the said Agreement and agrees to these Terms and Conditions in its entirety.
3. Smart IT Pty Ltd provides **support, monitoring and/or maintenance of the network components, server functions, hardware functionality and Microsoft operating systems and maintenance tools, and offer individually tailored MSP services to suit the Customer.** The level of these services are therefore defined individually based on the options chosen by the Customer.
4. Agreements are subject to minimum periods for cancellations and fees.
5. All Smart IT Pty Ltd **MSP Agreements** are required to undergo a **general review** after the initial 3 months of the commencement date. This is to re-assess any additional issues, or additions to the network that were not initially made aware of at the commencement of the Agreement, or additional servers or workstations that have been added or removed, since the commencement of the Agreement that now fall under the scope of support and maintenance. An agreed additional cost or reduction in cost will be added to the Agreement in writing.
6. All MSP Customers are to be **managed within the scope of the individual Agreement** and any changes to the Agreement must be provided to either party in writing and signed by a representative of both parties and provided on a company letterhead.
7. **MSP Agreements Additional Hourly Fees if required:** The benefit is the reduced hourly rates offered to Customers on a 12 month Agreement. Customers who are not on an agreement revert to Ad-Hoc hourly fees.
8. **The MSP program fee** that we calculate in our proposals are based on the **individual devices such as PCs, laptops and Servers, and are defined in the Agreement on a fee basis per machine.** (The rates are not per hour based.) The rate therefore is per device, workstation or per server. Additional workstations, laptops and servers may be added to the Agreement during its course, provided it is agreed upon in writing by Smart IT Pty Ltd and an additional charge with new rates payable under the same terms and conditions. The fee covers various levels of regular and scheduled maintenance as defined by the Agreement on each machine.

9. Each MSP program is individually *tailored according to the Customer's needs*. We offer optional extras within each program. Currently we offer under a signed MSP Agreement- *Smart IT Corporate*, and *Smart IT Premium Fully Managed* programs, each with options available.
10. Also under our MSP Programs is *Smart Offsite Backup Manager-Cloud Services* for data replication. Fees are charged for the license of the backup service based on a 'per 100GB' of data. This fee is for the service of offsite backup and monitoring. This is a backup off-site service and monitoring service only. Additional charges are applied for time taken to remedy any issues. NB: Data services are as per your ADSL service with your ISP and is separate to the license service provided under this service. A once off fee is charged to setup the off-site backup service, with a monthly fee for the service is charged.
11. **Time Allocation for support** (if applicable) is an allotted amount of time per machine for IT support requests via the Job Ticketing System. This time allocation is accumulative for the Customer as a whole for each month within that month. The allotted time per Customer will be used to address each issue, either remotely or onsite. This time allocation isn't accruable and does not roll over to the next month.
12. Any work that is required to be undertaken as **additional hours**, for any projects that fall outside the agreed allotted time allowance of accumulative hours per month for the Customer, will be charged accordingly. All additional billable hours to address maintenance issues that are not under the chosen program will be charged accordingly. (See Fee Chart below.)
13. All MSP Agreements are set in place for a **minimum of 12 months**. All **invoicing** is generated for one full month in advance of a whole month, ie an invoice is generated mid January for the month of February, and so on. If the commencement of an Agreement falls on a day part way through any given month, a pro-rata invoice will be given for the days that fall in the commencement month, with another invoice generated for the following month, and continues as a recurring cost for the term of the Agreement.
14. Monthly invoices **MUST be paid by the due date on the invoice**. Smart IT Pty Ltd has the right to refuse support to a Customer if the Customer's account is not paid in full by the 3rd business day following the payment due date. **There are no exceptions**. No work will be undertaken if payment is not received. Work will resume once payment is received as cleared funds into the designated Smart IT Pty Ltd bank account. Smart IT Pty Ltd reserves the right to refuse to attend to a support request if payment is not paid for the month of service this request falls in. A late fee will be charged to the Customer of 10% per month of all outstanding monies.
15. A **Direct Debit** from your nominated bank account can be set up for payments to be made automatically to Smart IT Pty Ltd. This is the preferred method of payment for each monthly invoice.
16. Smart IT Pty Ltd **recommends on-site visits** to help establish business to business relationships with all staff. This time also allows both parties to discuss at a face-to-face level, reports and other issues that require addressing and managing. It is encouraged that the Customer has a **designated personnel / manager** be appointed for all correspondence relating to issues and reports, to help manage the process on behalf of the Customer. It is requested that any known issues, are provided to the Smart IT Pty Ltd representative in advance, and prior to the visit as this helps the technician be prepared and equipped with any relevant tools necessary.
17. At the commencement of the Agreement, Smart IT Pty Ltd, assesses and provides an **SOE (Standard Operating Environment) document** to the Customer to ensure that only authorised software is loaded onto the company computers and workstations. The Customer's management will need to provide a **list of software applications that are required** for the company to run for each workstation, and to also provide knowledge of software requirements, permissions and preferences to maintain same. i.e. permission levels, tool bars and Google settings, and whether or not users are permitted to have particular software on the network. This also assists Smart IT Pty Ltd when addressing support needs and troubleshooting. Each workstation will have a **registry** of what is loaded and general requirements for each user. Support, management and training of third party software applications/programs is not the responsibility of Smart IT Pty Ltd (see clause below).
18. Agreements are based on **Business Hours (Monday to Friday 9.00am to 5.00pm)**, on a **minimum of 12 months agreement**. (Agreements can be tailored to Customer's need in the event that full support for 'extended hours' is also required, ie on a larger scale outside of normal Business Hours for the 12 months. This is to be negotiated upon prior to commencement of such an agreement.) Agreements are of a minimum Contract Period of ninety (90) days.
19. All MSP Agreement Customers will be provided with the required Smart IT Pty Ltd software applications which include: the **Smart IT Agent Centre**, **Remote Access Log In** and the **Web Based Job Ticketing System**. These are loaded on each workstation and server as defined in the Agreement, at an annual cost to the Customer as specified in this Agreement. (Permission levels to these systems may also be provided to the Customer upon request in the form of a written request.) These applications are removed at the end of such Agreement. A small icon is loaded onto the device and is seen in the System Tray (visually seen on the desktop).
20. Each job request for **helpdesk support must be entered into the Web Based Job Ticketing System** first. An auto-reply is generated to the user notifying that the job is now in the queue to be actioned.
21. **Response times** to all logged requests will be within a 24 hour time period. Each job is queued, and actioned upon with feedback to the client.
22. The **Web Based Job Ticketing System** which allows communication to manage IT Support requests is the **preferred method of all IT support requests**. It is the responsibility of the Customer to ensure that the true and accurate description of the required tasks is logged into the system for the Smart IT Pty Ltd staff members to action. It is understood that **ALL** requests and enquiries regarding any issues to the network, hardware, workstations, or other devices and issues, are to be entered by relevant staff members of the Customer into this system for support requests. Smart IT Pty Ltd requests Customers to have in place a **policy and procedure for their personnel** to follow regarding this **Job Ticketing System**. It is expected that telephone calls to Smart IT Pty Ltd staff will therefore be minimised and also be limited to emergency issues only, or unrelated general 'support' issues by management only.
23. It is understood that **monthly reporting to the Customer** is dependent upon this **Job Ticketing System** being utilised and maintained by both the Customer and Smart IT Pty Ltd thus providing detailed information that assists in monitoring issues. It is important that this record of reporting is upheld for both party's logs and reporting methods.
24. What is included in the MSP Corporate and Premium Agreements, is standard routine maintenance of each hardware under the contract (devices defined as per individual Agreement) by the installed Smart IT Agent software on scheduled routines, and by Smart IT Pty Ltd personnel. This is undertaken in accordance with minimum standards required to maintain such hardware. Each MSP program offers additional management as options and are defined in the Agreement. The work that is carried out is dependent on the report data that is generated by our diagnostic system tools on a regular basis. This data can also be provided in a summary format in the monthly reporting to the Customer. System checks and maintenance on the server and workstations are occasionally carried out after hours manually by Smart IT technicians.
25. The **allocated helpdesk support time** per machine, as defined in the Agreement are spent in addressing ticketing issues and/or handling emails that may arise, from time to time by either your personnel in relation to the various hardware and Windows systems applications in place, or by the automated alerts generated by the Smart IT Agent software that is installed. The Job Ticketing System generates a logged notification to Smart IT Pty Ltd, which also assists in reporting the history of each job. **Response Time:** is within 1 to 24 hours of job ticket logged into the Job Ticketing System. Business Hours work is undertaken between Monday and Friday 9.00 to 5.00pm. All other work is defined as After Hours.
26. If the allocated support time hours are absorbed in the given month, and additional hours are used by the Customer for support issues, then **additional hours are charged** at the discounted rate under the Fee Schedule (see below). Additionally, if the Customer requires an emergency response for an issue, that is **authorised** as being a **Business Critical** priority (see Definitions in Fee Schedule) which is classed as an issue that cannot wait to be queued and addressed within the Allocated Support Hours allotment within 24 hours, then Smart IT Pty Ltd will action the request and apply the Business Critical Fee accordingly.
27. **Support also includes** general troubleshooting for servers, network administration ie user creation, passwords etc, patches and upgrades of server based applications, network configurations and application troubleshooting, security software installs if required, and maintaining the network.
28. **Levels (Technical Skill Required Levels)** determined by Smart IT Pty Ltd within the bounds of this MSP Agreement are Level 1 and Level 2 support, and Level 3 for Servers and networks. (See Level Definition below under Fees.)
29. **Monthly on-site visits** are scheduled at a time mutual and agreeable to both parties.
30. If the Customer chooses to hire from Smart IT Pty Ltd a **Smart UTM device** and have it installed on its premises, this device is to be maintained strictly by Smart IT Pty Ltd and remains the property of Smart IT Pty Ltd. The device is to be secured in a constant clean and cool environment at all times. Any costs associated with damage to the device will be charged to the Customer accordingly. The device is removed from the Customer's premises upon completion of the Agreement.
31. What is **excluded** in the MSP Agreement is the cost of new hardware, software, licensing software and labour involved to undertake additional projects and tasks that do not fit into the scope of the agreed works or services. These projects may include building of new servers, repairs to laptops, or developing websites for instance, and Level 3 support (See Fee Chart below.) It also includes maintenance required where it is not included in a service level option within one of the MSP programs. Each request must be identified with Smart IT Pty Ltd and agreed upon in writing. A Quote detailing the description of the task or project or new hardware, software and licensing, labour and installation costs or programming for instance, will be provided by Smart IT Pty Ltd before commencement of such a project or task. Smart IT Pty Ltd endeavours to keep costs down for MSP Customers. After Hours work is also excluded in the monthly cost for this Agreement, as does Emergency call outs, however, Smart IT Pty Ltd have a discounted cost per hour to cover these incidents if and when they are required for Customers on a MSP Agreement.
32. Where the term **'Monitoring'** is used within any of the services, it means the Smart IT Agent provides us with information / alerts that require attention. If the Customer appoints Smart IT Pty Ltd to attend to the service, an applicable fee applies to undertake such work.
33. Occasionally Smart IT Pty Ltd technicians will log into the network to undertake after hours checks, while there is minimal staff logged onto the network for instance, and at no extra charge to the customer. However, if a certain job and or task must be delayed until **after hours as requested** by the Customer, then After Hours rates may be applied and charged for accordingly.
34. Any work carried out that is identified by Smart IT Pty Ltd as being a **breach to this Agreement**, such as **interferences and/or tampering of the network caused by the Customer or third party**, that requires support to remedy the problems caused, will be charged back to the Customer accordingly.
35. **Defined List of 'Third Party Applications'** that are referred to under our MSP programs for Patch monitoring are: Adobe Reader, Java, Firefox, Quicktime, Shockwave, Opera, Winzip, iTunes, Skype, WinRAR, Chrome, Safari, Adobe Flash. **All other third party software is excluded.** NB: Milestone VMS for CCTV comes under our Additional Hours for CCTV maintenance programs.
36. **Other Third Party Software - Important Notice:** *Though we may identify and diagnose a problem caused by other third party software, it is understood that all third party software applications that you have installed, ARE NOT included for support issues and we remind you to contact the appropriate vendor for any issues or conflicts that arise from time to time. It is in your best interest to confer with the vendors regarding issues with the software. Time taken for Smart IT Pty Ltd to confer with third party software vendors/developers will be charged accordingly, at the rate specified in the Fee Chart for Agreement holders. In some cases, we include an additional IT Consultancy Flat Rate Fee per month to act on your behalf for issues that relate with vendor's software. However, Smart IT Pty Ltd is not liable or responsible for any Third Party Software. NB: Milestone VMS for CCTV comes under our Additional Hours for CCTV maintenance programs.*
37. In the event that Smart IT Pty Ltd diagnoses or troubleshoots an issue that has arisen outside of defined managed services in the Agreement, it will be treated as a separate project at a cost to the Customer. An example of such as issues with programs/software applications installed that are not from our 'Defined List of Third Party Applications' that Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any **third party software programs that the Customer has installed on any or all computers and servers**. (Examples are programs such as Quickbooks, MYOB, Console, and any other third party or purposely built software program that the Customer relies on to operate their business.) Support for any issues that arise from software programs is to be requested by the Customer to the appropriate Vendor of such programs. If in the event any network issues arise due to the failure of any programs that may cause disruption, hardware and or software conflicts, that result in any costs associated with the remedy or repercussions of such problems, these costs will be borne by the Customer. This also includes circumstances where a roll-out of new hardware and operating systems take place, such as server rebuilds or new servers are installed. It is expected that the Customer makes every effort to provide relevant software discs, licences if required and to ensure necessary support from these Vendors is provided to Smart IT Pty Ltd if and when required to assist in a smooth roll-out. Whilst every effort is made by Smart IT Pty Ltd to help with technical difficulties that software conflicts may cause, it is understood that technical assistance must be from the Vendors of the third party software. *Time taken for Smart IT Pty Ltd to confer with third party software vendors/developers to assist in remedying issues will be charged accordingly to the Customer.* NB: Where 'Third Party Applications Monitoring and/or Patch Management' is included in a MSP agreement, it is understood that this is not support or training of such software, it is simply a monitoring and/or patch management service.

55. Smart IT Pty Ltd will not be held responsible or liable for any disruptions to Customer's businesses, either monetary, physical or consequential to any computer or server function, data or telephony communication devices, and network traffic that may arise from either a natural disaster or other human error (including neighbouring tenants), Customer neglect, third party software failure, file corruption or conflict, or by a third party business such as your ISP provider, or Telco provider, or any other individual entity who is not part of Smart IT Pty Ltd. This clause applies also when Customer's make decisions and incorrectly prioritise tasks and projects that may result in disruptions and unwanted consequences. In the event, that Smart IT Pty Ltd is called to help diagnose problems that are caused by any of the above an appropriate charge for time spent will be issued to you the Customer.
38. Smart IT Pty Ltd expects and advises the Customer to have in place an **Acceptable Usage Agreement**, or guidelines in their policy and procedures, for its employees and end-users of workstations on the network, regarding exercising **duty of care** when using their workstations, and/ or accessing the web. The expectation is in both the prevention and the protection against exposure to harmful data to their network and/or workstations similar guidelines as part of their policies and procedures. This can be in any or all forms such as via web, internet, intranet, emails, websites of any kind including social media sites, USB ports, CD/DVD-ROM drives, portable drives or laptops. The expectation is the Customer also has installed and maintains appropriate licensed anti-virus software on all such devices with scheduled regular updates automated. Smart IT Pty Ltd will not be held responsible for any disruptions to business, either monetary, physical or consequential to any computer or server function, data or telephony communication and network traffic that may arise, and is not limited to all forms of origins such as, from viruses or any other malicious or intrusion executable files that have been introduced to the hardware and/or network, in any way, accidentally or directly, from downloads, programs, cookies from websites, executable files from websites, data sharing, opening of files from devices, or loading executable files onto any part of the network. **Smart IT Pty Ltd is not responsible for the functionality, reliability or performance of any anti-virus software program or device.**
39. **Social media sites** and other interactive websites will be regarded as being permitted on all Customer networks unless the Customer's management has instructed in writing to Smart IT Pty Ltd to block certain site(s) to each computer terminal or the entire network. Smart IT Pty Ltd is not responsible for employees' access or actions on all or any social media sites. Smart IT Pty Ltd will not be held responsible for any disruptions either physical or consequential to any computer or server function, data or telephony communication and network traffic that may arise from viruses or any other malicious or intrusion executable files that have been introduced to the hardware and network, in any way, accidentally or directly, such as downloads, data sharing, opening of files from devices, or loading executable files onto any part of the network.
40. Smart IT Pty Ltd requests the Customer to seek recommendations by Smart IT Pty Ltd personnel, before purchasing additional workstations, printers, laptops, and software etc that will be added to the network. Smart IT Pty Ltd reminds Customers that in some instances versions of software on new hardware may conflict with current software and drivers that are currently installed and configured on various devices on the network and may cause disruptions. Therefore, it is important for the Customer to seek recommendations by Smart IT Pty Ltd of known or possible conflicts that may arise, prior to making purchases. Smart IT Pty Ltd offers highly competitive pricing for hardware and software, and projects requiring labour/consultancy time is provided at a discounted rate.
41. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any and all of the network components if a **Customer logs into the system** in any way and changes (accidentally or directly) any part of the configurations of the network or workstations or servers. It is expected, that at all times, the Customer hands over all maintenance needs to Smart IT Pty Ltd when under the Fully Managed Premium MSP Agreement. We remind Customers that it is beneficial for all maintenance and support to be handled by only qualified members of Smart IT Pty Ltd. If in the event the Customer does interfere or tampers with the system or network in any way (accidentally or directly), support costs required to remedy the consequences will be charged relevant to the hours that said work is undertaken and relevant to business critical emergency needs and will be charged to the Customer as costs outside of the Agreement (see Fee Chart below.)
42. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support for any and all of the network components if a **Customer appoints and allows a third party access (of any type) to the network, hardware or software and/or configurations**, without prior knowledge and acceptance in writing of same. If in the event any network, hardware and or software, that has been added to the network or changed by the Customer or a third party without prior knowledge and acceptance in writing by Smart IT Pty Ltd, it will be considered a breach to this Agreement and Smart IT Pty Ltd has the right to terminate the Agreement immediately and the Customer is expected to pay in full all current invoices and a further **Early Termination Fee** of 50% of the balance of the remaining 12 months regardless of what day of the month this decision falls upon.
43. Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support, for any hardware that has been added to the network in any way, by the Customer or by a third party, without prior knowledge and acceptance in writing of same. This includes the introduction of laptops, portable devices and USB devices that are not under this Agreement. If in the event any hardware that has been added to the network by the Customer or a third party without prior knowledge and acceptance of Smart IT Pty Ltd, this action may cause breach to this Agreement and Smart IT Pty Ltd has the right to terminate the Agreement immediately and the Customer is expected to pay in full all current invoices and an **Early Termination Fee** of 50% of the balance of the remaining 12 months if termination of the Agreement occurs.
44. During the course of the Agreement in place, Smart IT Pty Ltd will not be held responsible or liable, or be expected to provide support, for any third party software/programs that has been added to the network in any way by the Customer or by a third party, without prior knowledge and acceptance in writing of same. If in the event any third party software/programs that has been added to the network by the Customer or by a third party without prior knowledge and acceptance of Smart IT Pty Ltd, this action may cause breach to this Agreement and Smart IT Pty Ltd has the right to terminate the Agreement immediately and the Customer is expected to pay in full all current invoices and an **Early Termination Fee** of 50% of the balance of the remaining 12 months if termination of the Agreement occurs.
45. **Hardware and Software - upgrades and or replacement:** Whilst we understand the costs involved in replacing or upgrading equipment can come at an untimely period in business, we urge customers to factor into their ongoing costs of their IT infrastructure, an allocated yearly budget to update software applications and hardware as needed. If, and when we recommend and/or urge a Customer to upgrade or replace their IT hardware or software it is to meet the minimum requirements to ensure patches and other supported vendor updates can successfully be undertaken. It is the Customer's responsibility to ensure all software applications loaded on any/all devices and machines, are suitably compatible and meet the operating systems' minimum requirements.
46. It is recommended and urged by Smart IT Pty Ltd, that when Microsoft is no longer supporting an operating system such as Microsoft XP (no updates and patches are issued), that Customers make every effort to upgrade both equipment and software as and when required to prevent problems that can and will occur. Smart IT Pty Ltd is not responsible or liable for any issues that arise from out of date equipment and/or operating systems requirements for all workstations, laptops and servers that are still in operation. From time to time, Microsoft OS's require a minimum in hardware to operate, which means an upgrade of PC's, Laptops and/ or Servers will be required.
47. **Additional Fees** are charged according to Level of support required and whether it is undertaken within business hours, after hours or are requested as Business Critical. Please see Fee Chart below.
48. Costs associated with any Servers, PCs or Laptops, requiring rebuilds and installations are excluded in this Agreement; this involves labour, hardware, software costs, cabling materials, third party costs (if required to perform specialised tasks, ie appointed subcontractors such electricians and data cabling). These costs are not included in this Maintenance Agreement. All of these costs and expenditures will be invoiced directly to the Customer at the applicable rate. (See Fee Chart below.)
49. Customers must provide clean, suitable UPS protected and regulated mains power and terrestrial data connection/network (if required) as well as a suitable earth point for lightning protection as required and/or requested by Smart IT Pty Ltd or its agents adjacent to the installation.
50. It is the responsibility of the Customer to maintain all equipment in a suitable cool environment, particularly servers are to be maintained in a constant clean, cool and minimal humidity environment, to help prevent undue damage and help to increase the life-span of same. Server equipment must be maintained in a constant air-conditioned cooling environment of an absolute maximum of 24°C. However, it is recommended that an ambient temperature for servers and server racks is maintained at a constant temperature below 20°C. Any damage caused by neglect of the Customer not meeting this requirement, will be charged accordingly to the Customer for any repairs or remedies and all associated costs if any part of the network hardware fails due to neglect. It is the responsibility of the Customer, to ensure all due diligence is provided in maintaining the hardware and equipment installed. Smart IT Pty Ltd will not be held responsible for any disruptions either physical or consequential to any computer or server function, data or telephony communication and network traffic that may arise from this neglect.
51. It is the Customer's responsibility to ensure back-up and data protection systems are in place to minimize the impact of any untoward circumstances of damage to equipment and data in all such events, such as theft, flood, fire or any other form that causes a loss of data. Smart IT Pty Ltd recommends and advises all Customers to have their data backed-up on an off-site facility and scheduled backups are carried out daily.
52. Either party may terminate the MSP Agreement with a 30 day written notification to the other party. In the event the Customer terminates the Agreement, payment of all outstanding monies is due by the Customer and an **Early Termination Fee** of 50% of the balance of the remaining 12 months will be applicable and chargeable to the Customer and payable by no later than the 30th day after notification of the termination of services. **Early Termination by the Customer may only occur after a minimum of 3 months into the Agreement.** If in the event, Smart IT Pty Ltd determines to cancel the Agreement with the Customer, and provides 30 day written notification, this **Early Termination Fee** is waived however current costs for current month is fully payable and any other outstanding invoices are also required to be paid in full. In the event of this IT support agreement being terminated, it also allows Smart IT Pty Ltd time to prepare for an IT support handover to the newly appointed IT support company/person (appointed by the Customer) during the 30 day period. Agreements are This clause is subject to legal procedures – see following page.

SMART IT PTY LTD - FEE CHART

The following fee chart shows our hourly rates applicable for both Ad-hoc support Customers (on an as needed hourly basis) for Customers that are not on a MSP Agreement, and those on a signed MSP Agreement. Rates listed as "Agreement Rates" will only apply to Customers who have signed the MSP Agreement. The Agreement will only take effect, and those rates applied, upon acceptance and signing of the said AGREEMENT. Until then, any work undertaken for a Customer, the Ad-hoc Hourly Fees will apply. Renewals of said Agreements must take place for the Signed Agreement Rates to continue.

Projects 'outside' the Brisbane Metropolitan area (distance of greater than 35kms from Brisbane office) will incur a Flat Fee, and if sites are in regional/country or interstate all associated travel costs and accommodation expenses as applicable will be charged accordingly in addition to hourly rates.

LABOUR/CONSULTANCY RATES		
AD-HOC (BH)	Standard Rates: BUSINESS HOURS (Monday – Friday 9.00am to 5.00pm) (Excludes Public Holidays). Minimum 1 hour charge. (Level 1)	\$135.00 / hour plus GST
AD-HOC (AH) Surcharge	AFTER HOURS - Surcharge (defined as outside normal business hours Monday to Friday 9.00 – 5.00pm, and Public Holidays, Saturdays and Sundays)	Surcharge \$60.00 / hour plus GST for each hour (ie additional to above Standard Ad-Hoc hourly rate) with a minimum of 2 hours.
Call Out Fee	Ad-Hoc Customers Only - Call Out Fee for onsite visits: Flat Fee Applies to Ad-Hoc customers requiring On-Site visit. NB Travel <35kms from Brisbane office	\$60.00 plus GST - Flat Fee (plus above relevant hourly rates)
AGREEMENT (BH)	Discounted Agreement Rates: BUSINESS HOURS (Monday – Friday 9.00am to 5.00pm) (Excludes Public Holidays). (Level 1)	\$120.00 / hour plus GST
AGREEMENT (AH) Surcharge	AFTER HOURS - Surcharge (defined as outside normal business hours Monday to Friday 9.00 – 5.00pm, and Public Holidays, Saturdays and Sundays)	Surcharge \$60.00 / hour plus GST for each hour (ie additional to above Agreement hourly rate). No minimum hours.
Travel Fee	ALL CUSTOMERS - Flat Fee. Applies to all jobs greater than 35kms from Brisbane office	\$60.00 plus GST - Flat Fee (plus relevant hourly rates)
Business Critical/Emergency	ALL CUSTOMERS - Emergency - Business Critical - ie Drop everything scenario Flat Call Out Fee of \$100.00 plus GST applies and is in addition to the hourly rates, BH or AH hourly fees for on-site visits.	\$100.00 plus GST - Flat Fee (plus above relevant rates) with a minimum of 3 hours.
Engineer Consultancy Surcharge	ALL CUSTOMERS - Network engineering (Level 2 and 3) - Flat Fee Surcharge Flat Call Out Fee of \$130.00 plus GST applies and is in addition to the hourly rates, BH or AH hourly fees	\$130.00 plus GST - Flat Fee (plus above relevant rate). No minimum hours.
CCTV Security Design	Professional Services: CCTV Design Consultancy of Surveillance Systems - Architectural /Schematics and Plans System Design and Site Plans	\$185 / hour plus GST

DEFINITION OF LEVELS

Level 1 Support – is defined as *general IT* Support covering support such as installing printers, applications and software, problem diagnosis of workstations, laptops, peripheral hardware, and computer hardware cleaning, and basic maintenance of workstations and laptops, and any other issues Smart IT Pty Ltd deems to fall into this Level 1 support.

Level 2 Support – is defined as IT Support for *networks including Servers and workstations* on the network. Covers support such as network problem solving and/or troubleshooting, configurations, mapping, hosting issues, general email network 'Customer' issues, and any other issues Smart IT Pty Ltd deems to fall into this Level 2 support.

Level 3 Support – is defined as *engineering and or programming* skills required to undertake the scope of works that don't fall into Level 1 and Level 2 Support. These may include issues requiring programmers and engineers with a skill set specialising in coding and reconfiguring issues that are deemed to be outside of the scope of Level 2 Support. For example email Exchange Servers, SBS, DNS servers, SQL servers, proxy servers, terminal servers, WINS, DHCP, Layer 1,2,3 switching including POE and VLAN and may include QOS configurations.

It is at the discretion of Smart IT Pty Ltd what level each support task and/or job is undertaken and is deemed to fall under, and thus conveyed to the Customer. Smart IT Pty Ltd notifies the Customer of such decision as it is identified, and becomes evident.

Confidentiality & Non Disclosure Agreement

Where Smart IT Pty Ltd is requested to and agrees to review, examine, inspect or obtain certain confidential information relating to the affairs of a Customer, only for the purpose described above, ie retrieved by data recovery methods, access to server data, email data, documentation, and any other data that is furnished by the Customer, and to otherwise hold such information confidential pursuant to the terms of this Agreement.

BE IT KNOWN, that the Customer has or shall furnish to Smart IT Pty Ltd certain confidential information, and may further allow Smart IT Pty Ltd the right to view certain aspects of the business and/or interview appointed employees or representatives, on all of the following conditions:-

- Smart IT Pty Ltd agrees to hold all confidential or proprietary information or trade secrets (Information) in trust and confidence and agrees that it shall be used only for the contemplated purpose as agreed upon between parties, and shall not be used for any other purpose or disclosed to any third parties.
- No copies will be made or retained of any written information supplied unless pursuant to the remote maintenance and onsite support activities.
- At the conclusion of our discussions, or upon demand by the Customer, all information provided in confidence by the Customer, including written notes, photographs, memoranda, or notes taken by Smart IT Pty Ltd shall be returned to the Customer. Alternatively, this information and data may appropriately be destroyed upon the Customer's request.
- This information shall not be disclosed to any Smart IT Pty Ltd employee or consultant unless they agree to execute and be bound by the terms of this Agreement.
- It is understood that Smart IT Pty Ltd shall have no obligation with respect to any information held or shared within the Customer's information system, verbal information provided by staff of the Customer, and/or all known common knowledge information / generally known.

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NB: Smart IT Pty Ltd has the right to change these Terms and Conditions at any given time and will provide to the best of their ability notice thereof to all Customers if such occurrence takes place. These Terms and Conditions supersede all prior understandings, arrangements and Agreements.

LEGAL UNDERSTANDINGS:

1. Termination of the Service

by us

- 1.1. We reserve the right to terminate this Agreement and cease supplying the Services in the event that you materially breach any of this Agreement's Terms and Conditions.

by you (the Company)

- 1.2. You may terminate this Agreement with us in the following circumstances:
 - a) if we vary these terms and conditions which result in an excessive increase in charges or alter your rights to your detriment, unless such variations are imposed on us as a direct result of new legislation, statutory instrument, government regulation or licence;
 - b) at any time after the Minimum Contract Period of ninety (90) days, by written notice; provided the cancellation charges applicable to such termination are paid in full; and
 - e) we are no longer able to provide the Services.

2. Liability

- 2.1. This clause 2 sets out the entire financial liability of us to you (including any liability for the acts or omissions of our employees, agents, consultants and subcontractors) in respect of:
 - a) the provision of the Services
 - b) any breach of the Agreement
 - c) any use made by your End Users of the Services
 - d) any representation, statement, or tortious act or omission (including negligence) arising under or in connection with the Agreement.

- 2.2. All warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law excluded from the Agreement and Smart IT Pty Ltd limits its liability for any non-excludable conditions and warranties, where permitted by law to do so, to (at Smart IT Pty Ltd's

option) repairing or replacing the relevant goods, resupplying the relevant or equivalent services or, in either case, paying you the cost of doing so.

- 2.3. Nothing in this Agreement shall limit or exclude a Party's liability to the other Party:
 - a) for death or personal injury caused by negligence;
 - b) for fraudulent misrepresentation; or
 - c) for any other liability that may not, under Australian law, be limited or excluded,

and nothing in this Agreement shall limit or exclude your liability under clause 2.10(a).

- 2.4. Subject to clause 2.3, in no event shall a Party be liable to the other Party whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for any indirect or consequential losses incurred by you, or for any loss of profit, revenue, contracts, data, goodwill or other similar losses or for any loss or corruption of data or information or any special or pure economic loss, costs, damages, charges or expenses.

- 2.5. Subject to clauses 2.3 and 2.4, each Party's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement, including the provision of equipment, shall be strictly limited to the annual charges (commencing on the date of your agreement with us) paid or payable by you for the relevant Services.

- 2.6. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations or provision of the Services (i) where such delay or performance failure is due to any of your acts or omissions, where you have provided incorrect data or information; or (ii) network failure, network outage, network congestion, power failures; (iii) any interruption of the supply of the Services; or (iv) that is caused by events outside our reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party) Act of God, war, terrorist activity, malicious damage, compliance with any law or governmental order or default of suppliers or subcontractors

- 2.7. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. If it is established that you are in breach of this warranty then we shall have the right to immediately terminate the Services and you shall forfeit any credit remaining on your account.
- 2.8. You agree that any liability arising under this Agreement relating to the Services shall be solely against us and that you will not have, nor attempt to initiate, any right of recourse against any third party supplier of ours.
- 2.9. Smart IT Pty Ltd's liability for your loss under or in connection with this Agreement or the Service (whether based in contract, tort (including negligence), statute or otherwise) is reduced to the extent that your acts or omissions or your equipment (or the acts, omissions or equipment of a third person, including a supplier) cause or contribute to that loss.
- 2.10. Your liability:
 - a) you shall be liable for all charges or fees incurred in using the Services. In the event of loss or theft of any equipment it is your responsibility to inform us immediately so that we can prevent any further use of the Services by another unauthorised person if it applies to certain equipment whereby this service can be actioned. We provide no guarantees or warranties in relation to the prevention of the use of the Services on a lost or stolen piece of equipment and accept no liability for any unauthorised use of your account. You will be solely responsible for the equipment and its use to obtain the Services and will not be entitled to obtain any compensation from us for its loss or theft or any use after its loss or theft; and
 - b) you shall be liable for the full retail cost of the replacement of any Device that has been provided to you. In the event that any such Device is lost, stolen or damaged, your liability to us under this clause 2.10(b) shall not limit your liability to us under clause 2.10(a).

3. Changes to these Terms and Conditions and the Services

- 3.1. We reserve the right to change the terms and conditions of this Agreement from time to time and make changes to the Service or any promotion or charges relating to the Services at any time.
- 3.2. We shall give you notice of any such changes. In relation to our Acceptable Use Policy and Privacy Policy we may make changes to policies and will notify you in writing of the same.

4. Governing Law and Legal Compliance

- 4.1. This Agreement shall be governed by the laws of the State of Queensland and shall be subject to the jurisdiction of the Courts in that State.
- 4.2. Despite the governing law provided above, you may be subject to various rules, regulations and laws which may also apply to you in other States of Australia or in the country in which you use the Services, in particular where you choose your home state, or country to be a country other than Australia.
- 4.3. Subject to the terms of our Privacy Policy we may be required to collect further personal information from you in order to satisfy our compliance with any legal or regulatory compliance requirement. If we request such information from you and indicate that this is for legal or regulatory compliance then you agree that you shall provide us with the requested information and not provide us with false or misleading information.

5. Complaints

- 5.1. If you have any complaints or feedback about the Service you should send them in the first instance to admin@smart-it.com.au.

6. Privacy

- 6.1. We take our customers' privacy seriously. Whilst we respect the privacy of our customers, the Service may be subject to interception by law enforcement agencies and bodies. In addition we may be compelled to disclose your personal details where we are required to do so by a valid order of an authorised governmental representative or court order.
- 6.2. We will always use and process your personal data in compliance with applicable data protection law and regulations, as amended from time to time.
- 6.3. We will provide you with a copy of the personal data of yours that we hold where you request access to such information in writing and provided you pay us an administration fee of \$20.

7. Miscellaneous

- 7.1. We may compile and release information regarding you and your use of the Service on an anonymous basis as part of a customer and consumer profile or similar report or analysis.
- 7.2. All licenses not expressly granted in this Agreement are reserved and no other licenses, immunity or rights, express or implied are granted by us, by implication, estoppel, or otherwise. This Agreement does not grant you any rights to use any trademarks, logos or service marks belonging to us whatsoever.
- 7.3. You may not transfer or assign any or all of your rights or obligations under these Terms and Conditions without our prior written consent.
- 7.4. All notices given by you to us must be in writing (fax, email, and letter) to one of the following addresses: (i) Legal Department, Smart IT Pty Ltd, PO BOX 240, Fortitude Valley, Queensland 4006; or (ii) email to admin@smart-it.com.au; or (iii) Fax: +61 7 3854 1218, or as otherwise notified to you by us.
- 7.5. Failure to enforce any of our rights under these Terms and Conditions does not result in a waiver of that right.
- 7.6. We reserve the right to assign rights and duties contained in these Terms and Conditions to any Smart IT Pty Ltd group company or business.
- 7.7. If any provision of these Terms and Conditions is found to be unenforceable, all other conditions shall remain unaffected.
- 7.8. Boss Surveillance Systems is a trading name of Smart IT Pty Ltd, ABN 99 135 232 923, whose registered address is Suite 1, 83 Alfred Street, Fortitude Valley, Queensland 4006, Australia.
- 7.9. Smart IT Pty Ltd is a trademarked name and registered.
- 7.10. This Agreement, together with any documents referred to in it, constitutes the entire Terms and Conditions of the agreement and supersedes or extinguishes any prior drafts, agreements, undertakings, warranties and arrangements of any nature, whether in writing or oral, regarding such subject matter. Unless provided for elsewhere in this Agreement, this Agreement may only be modified or otherwise amended by written agreement of the Parties. This shall not exclude any liability that a Party would otherwise have to the other Party in respect of any statement made fraudulently by that Party prior to the date of this Agreement.
- 7.11. If there is a conflict between any main terms of this Agreement the order of precedence of interpreting this Agreement shall be as follows:
 1. Agreement;
 2. General Terms and Conditions
 3. Terms and Conditions in full (Annexure 1);

This document in its entirety forms part of Agreements as an Annexure 1.