

# STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SECURITY EQUIPMENT AND SERVICES TO CONSUMERS

These Terms and Conditions ("Conditions") set out the basis on which members of the Banham Group (as defined below) will provide our equipment and services to consumers. If you are buying the equipment or services for purposes connected with a business you are a business customer and our standard Terms and conditions for business customers (a copy of which is available on request) will apply.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following definitions apply:

**"Banham Group"** means Banhams Patent Locks Limited (registered company number 00457812) and each of its subsidiary (as defined in section 1159 Companies Act 2006) companies;

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in England when the banks in London are open for business;

**"Call-Out"** means an instance when we are required to attend the Property, this includes but is not limited to; either in response to an alarm activation or a request by you or your Emergency Contact;

**"Commencement Date"** has the meaning set out in **clause 3.3**;

**"Contract"** means the contract between you and us for the supply of Equipment and/or Services;

**"Deposit"** means 50% of the price of the Equipment and the Installation Services, if applicable;

**"Emergency Contacts"** means the people whom you ask us to contact if there is a break-in or other emergency at the Property;

**"Equipment"** means the keys, locks, alarm system, CCTV system, or other security equipment or devices (or any part of them) set out in the Order;

**"Event Outside Our Control"** means **any cause materially affecting the performance of our service and of our obligations under the Contract arising from** any event or circumstances beyond our reasonable control including acts of God, strikes, lock-outs or other industrial disputes, war, riot, fire, flood, or any natural disaster **affecting our service or a third party for which a substitute third party is not reasonably available**;

**"Installation Services"** means the installation of the Equipment at the Property and "Install", "Installing" and "Installed" shall be interpreted accordingly;

**"Keyholding Services"** means services relating to us holding Keys and making Call-Outs to the Property;

**"Keys"** means keys or devices to the Property;

**"Legal Requirement(s)"** means all legal and regulatory requirements relating to the Services and/or the Equipment;

**"Maintenance Services"** means services in respect of the maintenance of the Equipment;

**"Monitoring Services"** means the remote monitoring of the Security System from our Alarm Monitoring Centre and "Monitor" and "Monitored" will be interpreted accordingly;

**"Order"** means your order for the supply of Equipment and/or Services, as set out in your written acceptance of the Proposal;

**"Proposal"** means our written proposal or quotation for the supply of the Equipment and/or Services setting out details of the Equipment and/or Services and the applicable charges;

**"Property"** means your residential property at the address set out in the Proposal;

**"Recurring Services"** means services provided on an on-going or recurring basis during the term of the Contract such as Keyholding Services, Maintenance Services and Monitoring Services;

**"Security System"** means your security system at the Property (including any CCTV, intruder alarm, fire alarm or access entry phone systems);

**"Services"** means the services described in the Proposal;

**"Staff"** means our employees, agents, consultants and sub-contractors; and

**"we", "us" or "our"** means the member of the Banham Group which is named in the Proposal.

- 1.2 In these Conditions, unless otherwise expressly stated, the following rules apply:
- 1.2.1 the headings and sub-headings in these Conditions are for ease of reference only and do not affect the meaning of these Conditions;
  - 1.2.2 words in the singular include the plural and vice versa; and
  - 1.2.3 the masculine includes the feminine and vice versa;
  - 1.2.4 a reference to a clause is to a clause or paragraph of these Conditions;
  - 1.2.5 where examples are given by using words or phrases such as **"include"**, **"including"** or **"in particular"**, the examples do not restrict the meaning of the related general words;
  - 1.2.6 a reference to these Conditions or to any other document shall include any variation, amendment or supplement made to these Conditions or that other document;
  - 1.2.7 the words **"writing"** and **"written"** shall include any method of reproducing words in a legible and permanent form.

## 2. ABOUT US

- 2.1 We are a member of the Banham Group and a private limited company.
- 2.2 If you need to contact the member of the Banham Group which is named in the Proposal you can do so by writing to us at 20 Thornsett Road, London, SW18 4EF, telephoning us on 020 7622 5151 or emailing us at [security@banham.com](mailto:security@banham.com).

## 3. BASIS OF CONTRACT

- 3.1 Before you place an Order you should read these Conditions carefully and make sure the Proposal and the Order is complete and accurate. If you think that there are any mistakes in the Proposal, you should contact us to discuss matters.
- 3.2 When you submit the Order this does not mean that we have accepted it.
- 3.3 The Order will only be accepted when we contact you to tell you that we are able to provide the Equipment and/or Services. At this point and on this date (the **"Commencement Date"**) the Contract will come into existence and these Conditions will be binding on you and us.
- 3.4 The contract for Monitoring, Maintenance and Keyholding Services shall remain in force for a minimum period of 12months from the Commencement Date and thereafter from year to year unless either party terminates the contract by giving 1 month's written notice to the other.
- 3.5 The Proposal shall not constitute an offer and is only valid for a period of 90 days from its date of issue.
- 3.6 The Proposal is based on the information you provide in relation to your security requirements and you should make sure you are satisfied with the contents of the Proposal before you place an Order.
- 3.7 The images and descriptions of our Equipment and Services on our website and other advertising materials are for illustrative purposes only and, although we make every effort to be accurate, your Equipment and/or Services may differ in some respects, including dimensions.
- 3.8 We can make changes to these Conditions from time to time to reflect any changes in Legal Requirements. If we change these Conditions, we will notify you.

## 4. THE EQUIPMENT

- 4.1 The Equipment is described in the Proposal.
- 4.2 We can amend the specification for the Equipment if necessary to comply with Legal Requirements. If we do so we will notify you.
- 4.3 We guarantee that for 12 months from delivery/installation, the Equipment will be free from material defects but this guarantee will not apply to any defect in the Equipment that arises from:
  - 4.3.1 fair wear and tear;
  - 4.3.2 wilful damage, abnormal storage or working conditions, accident or negligence by you or a third party;

- 4.3.3 any alteration or repair by you or by a third party who is not one of our authorised repairers; and
- 4.3.4 you failing to use the Equipment in accordance with our instructions.
- 4.4 In addition to your rights under clause 4.3, if at any time any fault arises in any Equipment that has been continuously Monitored by us under our full police response Monitoring Service, we will replace or repair such Equipment at no additional charge to you except in respect of our reasonable labour charges.
- 4.5 We will not be responsible for any failure of equipment due to changes to the environment in which it was installed. This includes electrical and wireless signal interference.
- 4.6 The guarantees set out in these Conditions are in addition to and do not affect your legal rights in relation to Equipment which is faulty or not as described. Advice about your legal rights is available from your local Citizen's Advice Bureau or Trading Standards Office.
- 4.7 We may from time to time in the course of Installing, Monitoring or Maintaining the Equipment, recommend that additional security equipment is necessary to ensure the proper functioning of your Security System. You agree that:
  - 4.7.1 the supply by us of any such additional equipment will be on and subject to these Conditions;
  - 4.7.2 if you choose not to purchase any such additional equipment, the Security System may not operate to maximum effect; and
  - 4.7.3 the Monitoring and/or Maintenance by us of any such additional equipment will be subject to you paying any increase in our charges for those Services that we have notified to you prior to accepting your Order for that equipment.
  - 4.7.4 Where the Equipment includes the ability to remote control that Equipment via the Banham SmartAlarm+ mobile application software ("**App**"), the App is supplied to you by Pyronix Limited ("**Pyronix**") and your use of the App shall be governed by Pyronix's end user licence agreement for the App, including where applicable Pyronix's additional terms governing access to the Pyronixcloud service and we shall have no liability to you arising from your use of the App or the Pyronixcloud service.

## 5. DELIVERY OF EQUIPMENT

- 5.1 If we have agreed in writing to Install the Equipment or deliver it to you at the Property then delivery of the Equipment will be made by us delivering it to the Property. In all other cases, delivery will be made by you or your authorised representative collecting the Equipment from us.
- 5.2 Following our acceptance of your Order, we will contact you with an estimated delivery date which will be within 30 days of us accepting the Order unless you and we have agreed a different delivery deadline.
- 5.3 We will use our reasonable efforts to meet the estimated delivery date but occasionally delivery may be affected by an Event Outside Our Control.
- 5.4 If we have agreed to deliver the Equipment to the Property, you must ensure that someone is available at the Property to take delivery. If no one is available to take delivery, we may take the Equipment back, in which case you should contact us to rearrange delivery and you may have to pay additional delivery charges.
- 5.5 If we miss the deadline for delivery of the Equipment, then you may cancel the Order if:
  - 5.5.1 we have refused to deliver the Equipment;
  - 5.5.2 delivery within the deadline was essential (taking into account all the relevant circumstances); or
  - 5.5.3 you told us before we accepted the Order that delivery within the delivery deadline was essential.
- 5.6 If we miss the delivery deadline and you do not wish to cancel or you do not have the right to do so, we can agree a new delivery deadline and you can cancel if we do not meet the new deadline.
- 5.7 The Equipment will be your responsibility once it has been delivered to you or collected from us, as the case may be.

## 6. TITLE AND RISK

- 6.1 The risk in the Equipment shall pass to the Consumer on completion of delivery in accordance with **clause 5**.
- 6.2 Title to the Equipment shall not pass to the Consumer until we receive payment in full (in cash or cleared funds) for the Equipment, the Installation Services (if applicable) and any other debts owed from time to time by the Consumer to us.
- 6.3 We will provide you with a certificate of compliance from the National Security Inspectorate (where appropriate if the applicable standards have been met) for the Equipment as long as:

- 6.3.1 you have agreed to purchase Maintenance Services from us for a period of not less than 12 months from delivery of the Equipment; and
- 6.3.2 you have paid our invoices for the Equipment, the Installation Services and 12 months' Maintenance Services.

## **7. SUPPLY OF SERVICES**

- 7.1 We will supply the Services to you on the dates and at the times set out in the Proposal or otherwise agreed between us verbally or in writing.
- 7.2 We will use our reasonable efforts to complete the Services on the date and at the times agreed between us but there may be delays due to an Event Outside Our Control.

## **8. CONSUMER'S OBLIGATIONS**

- 8.1 The Consumer shall:
  - 8.1.1 ensure that the terms of the Order are complete and accurate;
  - 8.1.2 co-operate with us in performance of the Services and provide any assistance or information as may reasonably be required by us to facilitate the performance of the Services;
  - 8.1.3 provide us, our employees, agents, consultants and subcontractors, with access to the Consumer's property, office, accommodation and other facilities as reasonably required by us in order to provide the Services and take reasonable care to ensure the safety of our personnel and/or representatives;
  - 8.1.4 ensure that the Property is prepared for the Services and or equipment in the manner described in the Proposal, including by carrying out any alterations required;
  - 8.1.5 inform us of any potential hazards at or changes to the Property and provide any protective equipment necessitated by such hazards;
  - 8.1.6 obtain any applicable licences or consents necessary to the Services (including, if relevant, the consent of your landlord); and
  - 8.1.7 comply with other requirements described in the Proposal.
  - 8.1.8 ensure that appropriate environmental conditions are maintained for the Equipment and/or Services and shall ensure that such Equipment and/or Services are housed, operated in a proper manner in accordance with Banham's and/or the applicable manufacturer's instructions.
  - 8.1.9 where appropriate, nominate an authorised representative to be available to liaise with, and respond to queries from us in respect of the provision of Services and the supply of Equipment (for example, in respect of the provision of Services, as to the resolution of conflicting priorities between two or more items of support or maintenance).
  - 8.1.10 ensure that the Equipment and/or Service (or any part thereof) are not:
    - (a) modified without our prior written approval (which shall not be unreasonably withheld or delayed);
    - (b) subjected to excessive physical and/or electrical stress, accident, neglect, misuse or other damage;
    - (c) used in conjunction with any software, magnetic-media, accessory or consumable which does not meet with Banham or the relevant Vendor's specifications, or which are defective; or
    - (d) attached to any object, repaired or reinstalled without our prior written approval, (which shall not be unreasonably withheld or delayed).

in the event that the Equipment and/or Services are subjected to any of the acts set out in Clause 8.1 Banham reserves the right to charge for any remedial action required on a time and materials basis, in accordance with Banham's then current rates from time to time in force.
  - 8.1.11 promptly report to Banham any faults in the Equipment;
  - 8.1.12 at the Consumer's own expense, execute all documents and do all acts and things reasonably required by us to give effect to the terms of the Contract and shall provide access to all information and documentation which is within its possession which is reasonably required by us to enable us to fulfil our obligations hereunder; and
  - 8.1.13 provide to us in a timely manner all data, information and documentation reasonably required by us (as well as answers to queries and decisions, reasonably requested by us) to enable us to perform our obligations under the Contract and will ensure that such data, information and documentation is complete and accurate.

- 8.1.14 provide us with the correct keys and/or devices required for access to premises to enable us to perform our obligations under the contract and;
- 8.1.15 will not hold us liable for being unable to gain access to the premises due to the incorrect keys being provided by you
- 8.2 If we cannot perform the Services because you do not comply with your obligations under these Conditions, then we can suspend the Services without liability to you and/or make an additional charge of a reasonable sum to cover any extra work that is required.
- 8.3 If you do not pay us for the Services when you are supposed to then we can suspend the Services until you have paid us the outstanding amounts.
- 8.4 If our performance of any of our obligations in respect of the Services and/or Equipment is prevented or delayed by any act or omission by the Client or failure or delay by the Client to perform any relevant obligation ("**Client Default**"):
  - 8.4.1 we shall have the right, without limiting our other rights or remedies, to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve us from the performance of any of our obligations to the extent the Client Default prevents or delays our performance of any of our obligations under a Contract;
  - 8.4.2 we shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Client's failure or delay to perform any of our obligations as set out in this Clause 8.4; and the Client shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from a Client Default.
- 8.5 As a consumer, you have legal rights in relation to Services not carried out with reasonable skill and care, or if the materials we use are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Conditions will affect these legal rights.

## 9. MONITORING SERVICES

- 9.1 This clause 9 will apply to the Contract if and to the extent that we have agreed to provide Monitoring Services.
- 9.2 You agree that:
  - 9.2.1 If applicable to monitoring by the installation of a communication device, including either dual or single path or GPRS only communication, prior to Installation and throughout the period of the Contract, you must ensure that a suitable block telephone terminal and telephone line is available and operational at the Property and that failure to do so will result in us Monitoring the Security System without proper signalling, which may cause repeated fault signals to be notified, including the failure or intermittent loss of any GPRS signal;
  - 9.2.2 we use non-geographical phone numbers for our communication receivers and you are responsible for meeting the cost of the additional charges, if any, made by your supplier of telephone and internet connection services as a result of their use in connection with the Monitoring Services;
  - 9.2.3 if changes to the environment at the Property (such as the overgrowing of trees) cause the Security System to be falsely activated, we will ask you remedy the situation and, if you fail to do so, we will be entitled to disconnect the relevant part of the Security System without liability to you;
  - 9.2.4 we may at any time request the emergency services or your Emergency Contacts to attend the Property if we reasonably consider that there is a threat to any person or are obliged to do so by any Legal Requirement;
  - 9.2.5 we cannot guarantee that the emergency services or the Emergency Contacts will respond as you would want them to if we report a problem at the Property;
  - 9.2.6 our Alarm Monitoring Centre will attempt to call site on receipt of an activation of a Personal Attack/ Hold Up Alarm, unless otherwise instructed in writing by the Customer to contact the Police (if response is lost due to false alarms, the Police may seek further forms of confirmation);
  - 9.2.7 the functioning of the Security System may be affected by changes to the layout of the Property and you should notify us of any changes so that we can advise on whether any additions or amendments to your Security System are required;
  - 9.2.8 we will not be responsible for our failure to provide the adequate Monitoring Services or our poor performance of the Monitoring Services if that failure or poor performance results from:

- (a) defects in any parts of the Security System which have not been supplied by us;
  - (b) a defect in the Equipment caused by any of the factors described in clause 4.3; or
  - (c) the signal from your Security System failing or being interrupted as a result of a power failure or problem with the telephone or internet connection or wireless transmissions of the equipment at the Property;
- 9.2.9 we will perform a line test on the Security Equipment once in every 24 hour period and as such you acknowledge that it may take up to 24 hours for a fault in the Security System to be notified to us and you agree that we shall have no liability to you in respect of any losses, claims, demands, damages, costs and expenses arising solely by reason of the lapse of time between the fault occurring and the next line test.

## 10. KEYHOLDING SERVICES

- 10.1 This clause 10 & clause 8 applies to the Contract if and to the extent that we have agreed to provide Keyholding Services.
- 10.2 You agree in relation to our holding of Keys that:
- 10.2.1 we operate a shared service and shall attend the Premises within a reasonable time of receiving a request to do so;
  - 10.2.2 the Keys shall be kept sealed in a secured key room, in accordance with BS 7984:2008 (Keyholding and Response Services), that all procedures relating to this Contract are regulated by the same standard and that in some cases, Keys will be held using mobile response units secured in compliance with BS 7984-1:2016;
  - 10.2.3 you may request delivery of the Keys or the attendance of CMS at any time at the cost shown in the Schedule;
  - 10.2.4 you may request duplicates of the Keys at any time during our usual working hours;
  - 10.2.5 subject to clauses 9 and 10, you can collect the Keys from us at any time during our usual business hours;
  - 10.2.6 you must inform us of any changes that might affect our performance of the Keyholding Services (including changes to the layout of or locks at the property or to the contact details for you or your Emergency Contacts);
  - 10.2.7 keys which are not collected from us within 3 months of the Contract ending will be destroyed;
  - 10.2.8 we can refuse to give Keys back to you until all outstanding payments due to us from you have been paid;
  - 10.2.9 we will not accept liability for the loss or damage of items whilst being transported or delivered at the request of the customer;
  - 10.2.10 if we lose the Keys, we will notify you and arrange for the locks to be changed, at our expense, as soon as possible and in any event within 5 days of us notifying you. If we do not arrange for the locks to be changed within this time, you may arrange for the locks to be changed at our expense; and
  - 10.2.11 we will have no liability to the Customer for any loss consequent on our' loss of any Keys which occurs later than five days from us notifying the Customer of the loss or the locks being changed, whichever comes first; we will have no liability to the Customer for any indirect or consequential loss or damage of any kind
  - 10.2.12 we will not be obliged to start providing the Keyholding Services until 24 Working Hours (or 72 working hours if proceeding a weekend or bank holiday) from the date on which you first make the key to the Property available to us.
- 10.3 In relation to each Call-Out you agree that:
- 10.3.1 we will attend the Property as soon as reasonably practicable but we cannot guarantee the timescales for our attendance;
  - 10.3.2 we may not enter the Property if the Call-Out relates to a suspected break in or other criminal activity;
  - 10.3.3 we may contact the emergency services and/or your Emergency Contacts if, in our reasonable discretion, it is necessary or beneficial to do so;
  - 10.3.4 we may allow the emergency services and/or your Emergency Contacts access to the Property;
  - 10.3.5 if the circumstances of the Call-Out warrant the response being carried out by more than one member of Staff to ensure their safety, we can increase our charges proportionately;
  - 10.3.6 if neither the Police nor one of the Emergency Contacts are in attendance at the Property we may, but shall not be obliged to:
    - (a) enter the Property;

- (b) de-activate and/or re-set the alarm at the Property following activation;
  - (c) investigate the cause of the alarm at the Property being activated; and
  - (d) arrange for emergency repairs to be carried out at your expense if we reasonably consider that repairs are necessary to secure the Property;
- 10.3.7 we will not remain at the Property for any longer than 4 hours unless, in our discretion, we consider it appropriate to do so; and
- 10.3.8 if it is not possible to de-activate and/or re-set the alarm at the Property we will request the attendance at the Property of your alarm supplier but if it fails to attend within 4 hours or declares the alarm inoperative, we will attempt to refer the matter to one of your Emergency Contacts.
- 10.4 You agree that in providing the Keyholding Services we will not under any circumstances do or commit to do anything that would amount to us assuming the powers of the Police.

## **11. INSTALLATION SERVICES**

- 11.1 If we provide Installation Services to you, you agree with clause 8 and that:
- 11.1.1 you must prepare the Property in the manner described in the Proposal before we commence the Installation Services;
  - 11.1.2 the operation of the Security System may be interrupted or prevented during the carrying out of the Installation Services;
  - 11.1.3 where applicable the client should advise their insurers of the existing system being non-functional whilst works are undertaken and make alternative security arrangements for the duration of the works;
  - 11.1.4 we will only be able to reuse parts of your existing Security System or other equipment if they are compatible with the Equipment and in good working order and you may have to replace any parts or equipment that do not meet these criteria including cable and;
  - 11.1.5 the locations indicated in the Proposal for the installation of the Equipment are provisional only and, if our installers recommend relocating the Equipment to alternative locations, you will not unreasonably withhold your consent;
  - 11.1.6 we will not be responsible for any conduit or containment unless specifically documented in the proposal, including redecoration or making good/civil works.
- 11.2 apart from damage which is caused by our negligence, Banham will not be liable to make good any damage to the Premises or any third-party equipment resulting from the Installation Services;
- 11.3 in the event that Banham's personnel arrive at the Premises on the start date for the Installation Services agreed with the Customer and due to the act or omission of the Customer Banham is prevented from commencing the Installation Services the Customer:
- 11.3.1 shall be responsible for reimbursing to Banham upon request all Banham's wasted costs reasonably incurred in attending at the Premises; and
  - 11.3.2 shall be responsible for arranging a new start date for the Installation Services with Banham; and
  - 11.3.3 agrees that Banham shall have no liability of whatever nature arising from or connected to any subsequent failure to complete the Installation Services in accordance with the original programme agreed between the parties;

## **12. CHARGES AND PAYMENT**

- 12.1 The price of the Equipment and the Services shall be as set out in the Proposal or, if none are quoted, in our published price list at the time you place the Order, subject to any increases we agree from time to time.
- 12.2 The price of the Equipment is exclusive of all costs and charges of packaging, insurance, transport of the Equipment the price of which will be set out separately in the Proposal.
- 12.3 Our prices will include VAT. However, if the rate of VAT changes between the date of the Order and the date of delivery or performance, we will adjust the rate of VAT that you pay, unless you have already paid for the Equipment and/or Services in full before the change in the rate of VAT takes effect.
- 12.4 You must pay the Deposit for us to accept your Order and, in any event, before delivery of the Equipment.
- 12.5 We may invoice you for the balance of the price of the Equipment and Installation Services any time during stages of the installation and after we complete the Installation Services.

- 12.6 We will invoice you for Recurring Services at the times and in the amounts set out in the Proposal.
- 12.7 In addition to our other rights under these Conditions to increase our charges, we can increase our charges for Recurring Services once in any 12-month period. If, when you receive our invoices setting out this increase, the increase is unacceptable to you, you can cancel the Contact by giving us one month's written notice.
- 12.8 You must pay our invoices within 30 days of the date of the invoice in full and cleared funds by using the bank details we give you or via any other payment method approved by us. Where you have provided us with a bank mandate we will take payment of our invoices 30 days after the date of the invoice.
- 12.9 If you do not pay us when you are supposed to then we will charge you interest on the overdue amount at the rate of 8% above the base rate from time to time of our main bank in the United Kingdom. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You must pay the interest together with the overdue amount.
- 12.10 However, if you dispute one of our invoices in good faith and you let us know promptly after you have received an invoice that you dispute it, we will not charge you interest until we have made reasonable efforts to resolve the dispute with you.
- 12.11 The proposal is provided to the Customer in line with the information given to us by the client at the time of survey. Any orders placed are in accordance with that information and any variation to the site or environment after the point of order, which may result in a change of the proposal will be chargeable by us. The Customer may also by written notice to us, at any time, request a variation to the specification. In the event that we agree to any variation, the charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and us.

### **13. INTELLECTUAL PROPERTY RIGHTS**

- 13.1 All Intellectual Property Rights in the Equipment and all Intellectual Property Rights arising out of or in connection with the Services shall be owned by us.
- 13.2 The Consumer acknowledges that, in respect of any third party Intellectual Property Rights in the Services and/or Equipment, the Consumer's use of any such Intellectual Property Rights is conditional on us obtaining a written licence from the relevant licensor on such terms as will entitle us to license such rights to the Consumer.

### **14. CONFIDENTIALITY**

- 14.1 Each party undertakes that it will not at any time hereafter use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information concerning the business or affairs of the other party which may have or may in future come to its knowledge and each of the parties shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

### **15. OUR LIABILITY TO YOU**

- 15.1 We are responsible to you for any loss or damage you suffer that is a foreseeable result of our breach of the Contract or our negligence but we are not responsible for loss or damage which is caused by other factors. Loss or damage is foreseeable if it is an obvious result or if the possibility of it was known to you and us when we entered into the Contract.
- 15.2 We do not warrant or guarantee that the provision of the Equipment and/or Services will eliminate the possibility of break-ins at the Property or remove the requirement for you to insure the Property.
- 15.3 When performing the Installation Services we will make good any damage to the Property which is caused by our negligence or failure to comply with these Conditions but we will not be responsible for repairing existing faults or making good any damage which is an unavoidable result of the Installation Services and which we have advised you could result.
- 15.4 We understand that the Property is used solely as a private residence and we will not be responsible to you for any loss of profit, loss of business, business interruption or loss of business opportunity in relation to the Equipment and/or the Services.
- 15.5 Subject to **clauses** 11.3.3 and 15.6, the entire liability of us arising out of or in connection with the supply, non-supply or delay in supplying the Equipment and Services, or otherwise in connection with the Contract, whether in contract, tort (including negligence or breach of statutory duty) or otherwise, is limited to an aggregate figure of £250,000.



- 15.6 We do not in any way limit or exclude our liability to you where it would be unlawful to do so including liability for:
  - 15.6.1 death or personal injury resulting from negligence;
  - 15.6.2 breach of any of the provisions of the Consumer Rights Act 2015 referred to in sections 31 and 57 of that act (advice about your rights under the Consumer Rights Act 2015 is available from your local Citizens Advice Bureau or Trading Standards Office);
  - 15.6.3 defective products under the Consumer Protection Act 1987; or
  - 15.6.4 fraud or deceit.
- 15.7 This **clause** 15 shall survive termination of the Contract.

**16. TERMINATION**

- 16.1 This clause applies if you are a consumer and:
  - 16.1.1 the Order was placed and/or accepted during a meeting between us at a location which is not our business premises (for example, at the Property);
  - 16.1.2 you placed the Order immediately after a meeting between us that took place away from our business premises; or
  - 16.1.3 you placed and we accepted the Order by post, email, telephone or any other means of communication that did not involve a face to face meeting.
- 16.2 Except as described in clause 16.10, you have a legal right to cancel the Contract during the period set out in clause 16.3 (the "**Cancellation Period**"). During the Cancellation Period, if you change your mind or decide for any other reason that you do not want to proceed with the Contract, you can notify us of your decision to cancel.
- 16.3 Your legal right to cancel the Contract starts on the "**Commencement Date**" and the Cancellation Period depends on whether the Contract is for Equipment and/or Services as set out in the table below:

<b>Your Contract</b>	<b>End of the Cancellation Period</b>
Your contract is for the supply of Equipment or Equipment and Services	14 days after the delivery of the Equipment
Your contract is for the supply of Services only.	14 days after the Commencement Date.

- 16.4 To exercise the right to cancel, you must inform us of your decision to cancel by a clear statement in writing by letter or email.
- 16.5 We will not start providing the Services until the end of the cancellation period unless you expressly ask us to do so verbally or in writing. Any confirmation of an order for bespoke services, such as made to measure doors, bespoke locks, keys, gates etc. that meet your specific requirements will be processed to meet your confirmed installation date unless otherwise confirmed by you.
- 16.6 We will start providing Keyholding Services as per clause 10.2.12 unless you expressly ask us not to do so verbally or in writing and;
- 16.7 If you cancel the Contract then we will refund to you all payments received (including the cost of delivery of the Equipment) except that:
  - 16.7.1 if, at your request, we have provided Services during the Cancellation Period, we can charge you a reasonable sum for the Services provided (which, if we have completed the Services before you inform us that you wish to cancel, will be the full price for the Services); and
  - 16.7.2 we can deduct from the refund the loss of the value in any Equipment supplied if the loss is the result of unnecessary handling by you.
- 16.8 If you cancel the Contract, you must pay for the removal and return to us of any Equipment we have provided to you.
- 16.9 We will pay you the refund referred to in clause 16.77 not later than:
  - 16.9.1 14 days from the date on which you return the Equipment to us; or
  - 16.9.2 (if earlier) 14 days after the day you provide evidence that you have returned the Equipment to us; or

16.9.3 if no Equipment has been supplied to you, 14 days after the date on which we are informed of your decision to cancel the Contract.

16.10 The right to cancel under this clause does not exist in relation to Equipment which:

16.10.1 has been made to your specification, for example in relation to Keys to fit your existing locks; or

16.10.2 by its nature, becomes inseparably mixed with other items after delivery.

## **17. YOUR OTHER CANCELLATION RIGHTS.**

17.1 The rights set out in this clause 17 are in addition to your rights under clause 16.

17.2 You can cancel the Contract in relation to Recurring Services by giving us at least one months' written notice in which case we will refund to you any sums you have paid in advance.

17.3 If your contract is for Monitoring, Maintenance or Keyholding Services; You can cancel the Contract in relation to the Services by giving us at least one months' written notice expiring any time after the period of 12 months commencing on the Commencement Date in which case we will refund to you any sums you have paid in advance if requested by you in writing to do so.

17.4 You can cancel the Contract at any time with immediate effect by giving us written notice if we:

17.4.1 break the Contract in any material way and do not correct the situation within 14 days of you asking us to do so;

17.4.2 go into liquidation or a receiver or an administrator is appointed over our assets;

17.4.3 change these Conditions under clause 3.8 to your material disadvantage;

17.4.4 are affected by an Event Outside Our Control which prevents us from delivering the Equipment or providing the Services.

## **18. OUR CANCELLATION RIGHTS**

18.1 We may cancel the Order before the delivery of the Equipment or commencement of the Services if an Event Outside Our Control or unavailability of stock, materials or personnel prevents us from performing our obligations in which case:

18.1.1 we will notify you promptly; and

18.1.2 if you have made any payments in advance for the Equipment or the Services, we will refund these to you.

18.2 We may cancel the Contract in relation to any Services to be performed on an on-going or recurring basis by giving you not less than one months' written notice in which case we will refund any sums you have paid in advance for the cancelled Services.

18.3 We may cancel the Contract at any time if:

18.3.1 you do not pay us when you are supposed to; or

18.3.2 you break the Contract in any other material way and do not correct the situation within 14 days of us asking you to do so.

## **19. EVENTS OUTSIDE OUR CONTROL**

19.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Conditions that is caused by an Event Outside Our Control.

19.2 If an Event Outside Our Control takes place that affects our performance of our obligations under the Contract:

19.2.1 we will notify you as soon as possible;

19.2.2 our obligations under the Contract will be suspended and the time for performance of those obligations extended for the duration of the Event Outside Our Control;

19.2.3 if delivery of the Equipment or performance of the Services has been affected we will rearrange delivery and/or restart the Services as soon as possible when the Event Outside Our Control is over;

19.2.4 you will not have to pay us during any period when we are not performing the Services.

19.3 If an Event Outside Our Control takes place which prevents us from providing the Services and/or the Equipment, you can cancel the Contract in which case we will refund to you any sums you have paid in respect of Equipment not delivered or Services not performed.

## **20. DATA PROTECTION**

20.1 We will use the personal information you provide to us:

20.1.1 to supply the Equipment and Services to you;

20.1.2 to process your payment for the Equipment and Services; and

20.1.3 if you agreed to this during the order process, to give you information about similar products that we provide, but you may stop receiving this at any time by contacting us.

20.2 Where we extend credit to you for the Equipment and we may pass your personal information to credit reference agencies and they may keep a record of any search that they do.

20.3 We will only give your personal information to other third parties where the law either requires or allows us to do so.

20.4 Any personal information which you provide to us will be processed and stored by us in accordance with our privacy policy which can be accessed at [www.banham.co.uk/tcs/privacy-policy](http://www.banham.co.uk/tcs/privacy-policy). Any personal information which you provide in the course of using the Pyronixcloud service will be subject to the Pyronix Limited privacy policy which can be accessed at <https://www.pyronixcloud.com/privacypolicy>.

## **21. GENERAL**

21.1 We may transfer our rights and obligations under these Conditions to another organisation, and we will always notify you in writing if this happens, but this will not affect your rights or our obligations under these Conditions.

21.2 You may transfer the guarantee given under these Conditions in relation to the Equipment to any purchaser of the Property who acquires the Equipment from you. You may only transfer your rights or obligations to any other person if we agree.

21.3 The Contract is between you and us only and no other person may enforce it.

21.4 Each of the clauses in these Conditions operates separately and if any court or other relevant authority decides that they are unlawful the remaining clauses will remain in full force and effect.

21.5 If we fail to insist that you perform any of your obligations under these Conditions, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

21.6 These Conditions are governed by English law. You and we both agree to submit to the non-exclusive jurisdiction of the English courts. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.