

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

These Terms and Conditions set out the basis on which members of Banham Security (as defined below) will provide its equipment and/or services to business customers. If you are buying the equipment or services for purposes not connected with a business, you are a consumer and our standard Terms and Conditions for consumers (a copy of which is available on request) will apply. Your attention is particularly drawn to the provisions of **clause 15**.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following definitions apply:

**"Alarm Receiving Centre"** means Banham Security's secure station for monitoring security systems including the Security System;

**"Banham Security"** means Banham Patent Locks Limited (registered company number 00457812) and each of its subsidiaries (as defined in section 1159 of the 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;

**"Business Hours"** means 9am to 5pm on a Business Day;

**"Call-Out"** means an instance when Banham Security is required to attend the Premises, this excludes visits scheduled pursuant to a maintenance plan but includes but is not limited to-response to an alarm activation or a request by the Customer or an Emergency Contact to repair any Equipment outside scheduled maintenance plan visits or attendance with Keys in the event of an emergency lock-out for the purposes of effecting access to the Premises;

**"Commencement Date"** has the meaning set out in **clause 3.2**;

**"Conditions"** means these terms and conditions as amended from time to time in accordance with **clause 19.7**;

**"Confidential Information"** means all information, specifically identified by the disclosing party as confidential at the time of disclosure or is information that a reasonable person would consider from the nature of said information and circumstances to be confidential, including without limitation confidential or proprietary information, trade secrets, data, documents, communications, plans, know-how, formulas, designs, calculations, test results, specimens, drawings, studies, specifications, surveys, photographs, software, processes, programs, reports, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, and business and financial information.

**"Contract"** means the contract between Banham Security and the Customer for the supply of Equipment and/or Services in accordance with these Conditions;

**"Customer"** means the person or firm who purchases the Equipment and/or Services from Banham Security;

**"Data Protection Laws"** means:

- a) all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party; and
- b) any judicial or administrative interpretation of any of the above, and any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Supervisory Authority,

in each case, as in force and applicable;

**"Deposit"** means 50 per cent of the price of the Equipment and the Installation Services;

**"Emergency Contacts"** mean the individuals whom the Customer has requested Banham Security to contact in the event of a Security Breach or other emergency;

**"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 by Banham Security of its obligations under the Contract arising from any event or circumstances beyond its reasonable control including acts of God, strikes, lock-outs or other industrial disputes, war, riot, fire, flood, or any natural disaster affecting Banham Security or a third party for which a substitute third party is not reasonably available;

**"Expenses"** means all expenses incurred by Banham Security in the course of and for the purposes of the provision of the Services including parking and congestion charges;

**"Fees"** means the fees payable for the Equipment and/or Services as set out in the Proposal;

**"Insolvency Event"** means an event in relation to a Customer whereby that person a) suspends or threatens to suspend payment of its debts or is unable to pay its debts within the meaning of any relevant legislation; or b) commences negotiations with all or any class of its creditors to reschedule its debts or proposes or enters into a compromise or arrangement with creditor; or c) has a resolution passed, a petition filed or an order made for that person's winding up, bankruptcy or administration; or d) another person becomes entitled to appoint or has appointed a receiver or administrative receiver over that person's assets or d) any event happens in any jurisdiction to which it is subject that has similar or equivalent effect to the preceding events;

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

**"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

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

**"Keys"** means physical keys or electronic access devices to the Premises;

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

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

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

**"National Security Inspectorate"** means Insight Certification Limited (company number 02525516) trading as National Security Inspectorate;

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

**"Personal Data"** and **"Processing"** have the meaning given to those terms in the Data Protection Laws (and related terms such as **"Process"** and **"Processed"** shall have corresponding meanings);

**"Proposal"** means Banham Security's 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 Fees;

**"Premises"** means the Customer's premises at the address set out in the Proposal;

**"Recurring Charges"** means the Fees payable in respect of the Recurring Services;

**"Recurring Services"** means services which, in accordance with the Proposal, are intended to be performed on an on-going or recurring basis during the term of the Contract including Keyholding Services, Maintenance Services and Monitoring Services;

**"Remaining Balance"** has the meaning set out in **clause 16.3**;

**"Security Breach"** means any activation of the Security System at the protected Premises;

**"Security Incident"** means an event that disrupts normal operations and may indicate that systems or data have been compromised or that measures put in place to protect them have failed;

**"Security System"** means the Customer's security system at the Premises including any CCTV, intruder alarm, fire alarm or access entry-phone systems;

**"Services"** means the services set out in the Proposal;

**"Staff"** means Banham Security's employees, agents, consultants and sub-contractors;

**"Supervisory Authority"** means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering the Data Protection Laws;

**"Third Party Fees"** means fees payable by Banham Security to third parties relating to the provision of the Services;

**"UK GDPR"** has the meaning given to it in section 3(10)(as supplemented by section 205(4)) of the Data Protection Act 2018;

**"we", "us" or "our"** means Banham Security; and

**"you", or "your"** means the person who purchases the Services or Equipment from Banham Security.

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;
- 1.2.3 the masculine includes the feminine and vice versa;
- 1.2.4 any reference to a party is to a party to the Contract and includes the respective successors or permitted assigns of the original parties;
- 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 a person includes an individual, firm, partnership, company, corporation, association, organisation or trust (in each case whether or not having a separate legal personality);
- 1.2.7 a reference to a clause is to a clause or paragraph of these Conditions;
- 1.2.8 a reference to a company includes any company, corporation or any other body corporate (wherever incorporated);
- 1.2.9 a reference to a statute or statutory provision includes that statute or statutory provision as amended, modified or replaced and any subordinate legislation or mandatory codes of practice made under it, except to the extent that any amendments, modifications, replacements or subordinate legislation would create or increase a party's liability;
- 1.2.10 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;
- 1.2.11 the words **"writing"** and **"written"** shall include any method of reproducing words in a legible and permanent form.

## 2. ABOUT US

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

## 3. BASIS OF CONTRACT

- 3.1 The Order constitutes an offer by the Customer to purchase the Equipment and/or Services in accordance with these Conditions.
- 3.2 The Order will only be deemed to be accepted when Banham Security contact the Customer to tell the Customer that it is 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 subject to earlier termination in accordance with **clause** 16 shall remain in force in accordance with **clauses** 3.3 and 3.4) and these Conditions will be binding on the Customer and Banham Security.
- 3.3 The Contract for Recurring Services shall remain in force for a minimum period of 12 months from the Commencement Date (**"Initial Period"**), however, if any additional Installation Services are provided during

the course of the Initial Period then the minimum period shall be extended by a further period of 12 months commencing on the date of completion of the additional Installation Services ("**Extended Initial Period**").

- 3.4 Not less than four weeks before the end of the Initial Period or Extended Initial Period or Renewal Period as the case may be, Banham Security will give the Customer notice of the date on which the then current Contract period will come to an end along with an invoice for the Fees for Recurring services for the 12 months following the end of the then current period and if the Customer wishes to renew the Contract for such 12 month period ("**Renewal Period**") then it shall pay the invoice prior to the commencement of the Renewal Period. If the Customer does not pay such invoice prior to the commencement of the Renewal Period, the Contract shall terminate automatically at midnight on the last day before the commencement of the Renewal Period.
- 3.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.6 The Proposal shall not constitute an Offer and is only valid for a period of 20 Business Days from its date of issue.
- 3.7 The Proposal is based on the information provided by the Customer in relation to its security requirements and the Customer must satisfy itself that the contents of the Proposal are correct before placing an Order.
- 3.8 All of these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.
- 3.9 The Contract constitutes the entire agreement between the parties in relation to its subject matter. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by on our behalf and who is not set out in the Contract.
- 3.10 Except in respect of the Proposal, all drawings, descriptions, advertising and images provided or published by Banham Security of the Equipment and/or Services are for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of the Contract or have any contractual force.
- 3.11 The images and descriptions of Banham Security's Equipment and/or Services on its website and other advertising materials are for illustrative purposes only and, although it makes every effort to be accurate, the Customer's Equipment and/or Services may differ in some respects, including dimensions.

#### **4. THE EQUIPMENT**

- 4.1 Banham Security may amend the specification of the Equipment without liability to the Customer if required to do so by any Legal Requirement and in any other circumstance where the amendment would not materially affect the quality or Customer's use of the Equipment.
- 4.2 Banham Security warrant that for a period of 12 months from the date of delivery or completion of Installation (whichever occurs later) (the "**warranty period**"), all Equipment (other than Equipment falling within **clause 4.3**) shall:
  - 4.2.1 conform in all material respects with its description in the Proposal (as amended in accordance with **clause 4.1**); and
  - 4.2.2 be free from material defects in design, material and workmanship.
- 4.3 Banham Security warrant that for a period of 2 years from date of delivery or date of completion of Installation (whichever occurs later) (the "**warranty period**"), locks and door furniture manufactured by Banham Security and/or new doors supplied (where they are supplied with doorframes) shall:
  - 4.3.1 conform in all material respects with its description in the Proposal (as amended in accordance with **clause 4.1**); and
  - 4.3.2 will be free from material defects in design, material and workmanship.
- 4.4 The warranty in **clause 4.2** and **4.3** does not apply to any defects that arise from or are related to:
  - 4.4.1 shrinkage or expansion causing a bow or twist of up to 6mm caused by the effect of atmospheric conditions on the properties naturally inherent to the natural materials used for manufacture;
  - 4.4.2 failure to paint a door within 3 days of Installation;
  - 4.4.3 the paint finish on any door (doors subject to direct sunlight painted in darker colours will absorb significantly more heat and will therefore be more susceptible to increased movement as such Banham Security advises against the use of darker colours and will not be liable for movement above 6mm resulting from increased heat absorption due the colour of paint used);
  - 4.4.4 door furniture installed in coastal, marine or other salt-water environments; or

- 4.4.5 door furniture with an ebony bronze finish, which is a living finish and may change over time (this is not a fault in the finish).
- 4.5 Subject to **clause 4.6**, if the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Equipment does not comply with the warranty set out in **clause 4.2** or **clause 4.3** and Banham Security is given a reasonable opportunity of examining such Equipment, Banham Security shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.
- 4.6 Banham Security shall not be liable for the Equipment's failure to comply with the warranty in **clause 4.2** or **clause 4.3** if the defect arises as a result of:
- 4.6.1 the Customer's failure to follow our instructions in relation to the Installation, maintenance or use of the Equipment;
- 4.6.2 any alteration or repair by the Customer or by a third party who is not one of Banham Security's authorised repairers; and
- 4.6.3 fair wear and tear, wilful damage, abnormal storage or working conditions, accident or negligence by the Customer or a third party.
- 4.7 In addition to the Customer's rights under **clause 4.2**, and **clause 4.3** if, at any time, any fault arises in any Equipment that has been continuously Monitored by Banham Security under its full police response Monitoring Service and/or the Customer continuously subscribes to Banham Security's Alarm Response Keyholding Services Banham Security will replace or repair such Equipment at no extra cost to the Customer except in respect of its reasonable charges for labour.
- 4.8 Banham Security will not be responsible for the effects of the Equipment on other Customer devices or for the quality of Wi-Fi camera images and the Customer shall bear all responsibility for ensuring that image capture quality continues to meet the requirements of the original design.
- 4.9 Banham Security 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.
- 4.10 Banham Security shall have no liability in respect of any third-party devices which may be triggered by a Banham Security manufactured intruder alarm system unless that system is supplied and installed by Banham Security.
- 4.11 Where a fire alarm system is supplied by Banham Security based on designs provided by the Customer or any third party on behalf of the Customer, Banham Security shall have no liability arising out of or connected to missing detection points where these were missing from such designs and if the Customer refuses to pay for any additional equipment required to correct such omissions, then these will be noted as variations and may result in the design category of the system being downgraded.
- 4.12 Except as provided in this **clause 4**, Banham Security shall have no liability to the Customer in respect of the Equipment's failure to comply with the warranty set out in **clause 4.2** or **clause 4.3**.
- 4.13 These Conditions shall apply to any repaired or replacement Equipment supplied by Banham Security under **clause 4.5**.
- 4.14 Banham Security 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 the Security System. The Customer agrees that:
- 4.14.1 the supply by Banham Security of any such additional equipment will be on and subject to these Conditions;
- 4.14.2 if the Customer chooses not to purchase any such additional equipment, the Security System may not operate to maximum effect; and
- 4.14.3 the Monitoring and/or Maintenance by Banham Security of any such additional equipment will be subject to the Customer paying any increase in Banham Security Fees for those Services that are notified to the Customer by Banham Security prior to its acceptance of any Order for that additional equipment.
- 4.15 Where the Equipment includes the ability to remote control that Equipment via the Banham SmartAlarm+ mobile application software ("**App**"), the App is supplied to the Customer by Pyronix Limited ("**Pyronix**") and the Customer's 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 Banham Security shall have no liability to the Customer of whatever nature arising from the Customer's use of the App or the Pyronixcloud service.

## 5. DELIVERY OF EQUIPMENT

- 5.1 If Banham Security have agreed in writing to Install the Equipment or deliver it to the Customer at the Premises, then delivery of the Equipment will be made by Banham Security or by an approved representative delivering it to the Premises at any time after notifying the Customer that the Equipment is ready. In all other cases, delivery will be made by the Customer collecting the Equipment from Banham Security within seven Business Days of Banham Security notifying the Customer that the Equipment is available for collection.
- 5.2 Subject to **clause 5.4.1**, delivery of the Equipment shall be completed:
- 5.2.1 if Banham Security has agreed to deliver the Equipment, on the Equipment's arrival at the Premises;  
or
- 5.2.2 if Banham Security has not agreed to deliver the Equipment, upon the Customer collecting the Equipment from Banham Security.
- 5.3 Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. Banham Security shall not be liable for any delay in delivery of the Equipment or failure to deliver the Equipment that is caused by an Event Outside Our Control or the Customer's failure to provide Banham Security with adequate delivery or other relevant instructions.
- 5.4 If the Customer fails to accept delivery of the Equipment on the first occasion that Banham Security attempts to deliver it or to collect the Equipment within seven Business Days of being notified of its availability (as the case may be), then except where such failure or delay is caused by an Event Outside Our Control or by Banham Security's failure to comply with its obligations under the Contract in respect of the Equipment:
- 5.4.1 delivery will be deemed to be completed on the date of the first attempted delivery of the Equipment or at the end of the seventh Business Day (as the case may be); and
- 5.4.2 Banham Security shall store the Equipment until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 5.5 If 14 Business Days after Banham Security has notified the Customer that the Equipment is ready for delivery or collection the Customer has not collected or accepted delivery of the Equipment, Banham Security may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Equipment set out in the Order.

## 6. TITLE AND RISK

- 6.1 The risk in the Equipment shall pass to the Customer on completion of delivery in accordance with **clause 5**.
- 6.2 Title to the Equipment shall not pass to the Customer until Banham Security 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 Customer to Banham Security.
- 6.3 Until title to the Equipment has passed to the Customer, the Customer shall:
- 6.3.1 ensure that the Equipment remains readily identifiable as the property of Banham Security, including by not removing or obscuring any identifying marks on it;
- 6.3.2 keep the Equipment on the Premises;
- 6.3.3 maintain the Equipment in satisfactory condition and keep it insured against all risks for its full price on Banham Security's behalf from the date of delivery;
- 6.3.4 notify Banham Security immediately if it becomes subject to any of the events referred to in **clause 16.1.1** or **clause 16.1.2**; and
- 6.3.5 give Banham Security such information relating to the Equipment as it may require from time to time.
- 6.4 If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events referred to in **clause 16.1.1** or **clause 16.1.2**, then, without limiting any other right or remedy Banham Security may require the Customer to deliver up the Equipment and, if it fails to do so, Banham Security may enter the Premises and recover it.
- 6.5 Banham Security will provide the Customer with a certificate of compliance from the National Security Inspectorate for the Equipment provided that:
- 6.5.1 the Customer has agreed to purchase Maintenance Services for a period of not less than 12 months from Delivery of the Equipment; and
- 6.5.2 the Customer has paid the invoices for the Equipment, any associated Installation Services and 12 months' Maintenance Services.

## 7. SUPPLY OF SERVICES

- 7.1 Banham Security shall provide the Services to the Customer in accordance with the Proposal in all material respects or as otherwise agreed between Banham Security and the Customer verbally or in writing.
- 7.2 Banham Security shall use all reasonable endeavours to meet any performance dates for the Services specified in the Proposal or agreed in writing between the parties from time to time, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 Banham Security shall have the right to make any changes to the Services which are necessary to comply with any Legal Requirement, or which do not materially affect the nature or quality of the Services, and Banham Security shall notify the Customer in any such event.
- 7.4 Your Services will be supplied by Banham Security and only in limited circumstances (in particular, but without limitation, the circumstances set out in **clause 7.9**) by an approved representative. We will always notify you before sharing your Personal Data with any approved representatives.
- 7.5 Banham Security warrants to the Customer that the Services will be provided:
  - 7.5.1 using reasonable care and skill; and
  - 7.5.2 in accordance with all Legal Requirements.
- 7.6 In relation to each Call-Out, the Customer agrees that:
  - 7.6.1 Banham Security operates a shared service and shall attend the Premises within a reasonable time of receiving a request to do so but cannot guarantee the timescales for its attendance;
  - 7.6.2 Banham Security may not enter the Premises if the Call-Out relates to a suspected break in or other criminal activity;
  - 7.6.3 Banham Security may contact the emergency services and/or the Customer's Emergency Contacts if, in its reasonable discretion, it is necessary or beneficial to do so;
  - 7.6.4 Banham Security may allow the emergency services and/or the Customer's Emergency Contacts access to the Premises;
  - 7.6.5 if the circumstances of the Call-Out warrant the response being carried out by more than one member of Staff to ensure their safety, Banham Security can increase its charges for that Call-Out proportionately;
  - 7.6.6 if neither the Police nor one of the Emergency Contacts are in attendance at the Premises, Banham Security may, but shall not be obliged, to:
    - (a) enter the Premises;
    - (b) de-activate and/or re-set the alarm at the Premises following activation;
    - (c) investigate the cause of the alarm at the Premises being activated; and
    - (d) arrange for emergency repairs to be carried out at the Customer's expense if Banham Security reasonably consider that repairs are necessary to secure the Premises;
  - 7.6.7 Banham Security will not remain at the Premises for any longer than four hours unless, in its discretion, it considers it appropriate to do so; and
  - 7.6.8 if it is not possible to de-activate and/or re-set the alarm at the Premises, Banham Security will request the attendance at the Premises of the Customer's alarm supplier but if it fails to attend within four hours or declares the alarm inoperative, Banham Security will attempt to refer the matter to one of the Emergency Contacts;
  - 7.6.9 the Customer will co-operate with Banham Security in its performance of the Services and use all reasonable endeavours to assist Banham Security and provide any assistance or information as may be reasonably required by Banham Security to resolve any reported issues relating to Equipment or user error without delay to avoid unnecessary return attendances from Banham Security. Banham Security reserves the right to review the Contract and/or increase the Fees should any reported issues not be resolved due to the Customer's failure to comply with its obligations under this **clause 7.6.9**.

- 7.7 If the Customer requests a repair Call-Out outside of the scheduled maintenance visits this will be charged in line with Banham Security's current rates.
- 7.8 Banham Security shall not raise Call-Out charges for alarm activations and emergency lock outs for the first year only when the Customer signs up to the standard package.
- 7.9 Where the Customer requests a Call-Out outside of Business Hours, then the Customer agrees that Banham Security may sub-contract any such Call-Out to a third party contractor, such contractor may not have access to Banham Security's databases and thus may not be able to confirm whether the Customer's Equipment is within its warranty period and in such circumstances the Customer may be asked to pay an up-front charge in order for the contractor to attend the Call-Out, where the Customer's Equipment is within its warranty period Banham Security will refund such charge.

## **8. CUSTOMER'S OBLIGATIONS**

- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order are complete and accurate;
  - 8.1.2 co-operate with Banham Security in its performance of the Services and provide any assistance or information as may reasonably be required by Banham Security to facilitate the performance of the Services;
  - 8.1.3 provide Banham Security's Staff with unrestricted access to the Premises on the date and time agreed and arrange for easy access to all working areas and surfaces necessary to perform the Services and any other facilities including washroom facilities that Banham Security reasonably requires to complete the Services and take reasonable care to ensure the safety of Staff; and subject to prior arrangement the Customer shall provide a dedicated secure area on site for the storage of tools and equipment including site storage boxes;
  - 8.1.4 ensure that the Premises are prepared for the Services in the manner described in the Proposal, including by carrying out any alterations required;
  - 8.1.5 supply adjacent to any electrical control unit a non-switched fuse 240v spur outlet, unless Banham Security's engineer has been requested to fit this device by the Customer and this has been included in the Order;
  - 8.1.6 advise Banham Security of the existence of concealed water, gas, electricity, telephone or other services (if any known about) and point out to the Installation engineer their location before the Installation Services begin. Banham Security will use reasonable skill and care in identifying any concealed services not so pointed out and Banham Security will only be liable for damage to those services or for resulting damage to the extent that Banham Security does not take such reasonable care. Banham Security will not be liable for damage to glass concealed within windows and doors which are not of a standard construction;
  - 8.1.7 be responsible for the lifting of floorboards or floor coverings other than carpets, Banham Security will not be responsible for any damage resulting from the lifting and re-fitting of carpets;
  - 8.1.8 inform Banham Security of any potential hazards at or changes to the Premises and provide any protective equipment necessitated by such hazards;
  - 8.1.9 obtain any applicable licenses or consents necessary to the Services (including, if relevant, the consent of the Customer's landlord);
  - 8.1.10 comply with other requirements described in the Proposal;
  - 8.1.11 ensure that appropriate environmental conditions are maintained for the Equipment and/or Services and shall ensure that such Equipment and/or Services are housed and operated in a proper manner in accordance with Banham Security's and/or the applicable manufacturer's instructions;
  - 8.1.12 where appropriate, nominate an authorised representative to be available to liaise with, and respond to, queries from Banham Security 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);
  - 8.1.13 ensure that the Equipment and/or Services (or any part thereof) are:



- (a) not modified without Banham Security's prior written approval (which shall not be unreasonably withheld or delayed);
- (b) not subjected to excessive physical and/or electrical stress, accident, neglect, misuse or other damage;
- (c) not used in conjunction with any software, magnetic-media, accessory or consumable which does not meet with Banham Security's or the relevant vendor's specifications, or which are defective;
- (d) not attached to any object, repaired or reinstalled without Banham Security's prior written approval (which shall not be unreasonably withheld or delayed); or
- (e) maintained according to the care of finishes instructions provided with the Equipment.

in the event that the Equipment and/or Services are subjected to any of the acts set out in **sub-clauses** (a)–(d) or not maintained in accordance with **sub-clause** (e) Banham Security reserves the right to charge for any remedial action required on a time and materials basis, in accordance with its then current rates from time to time in force;

- 8.1.14 promptly report to Banham Security any faults in the Equipment, including actioning any issues with internet service and network providers for continued operation of any local area network or Wi-Fi service;
- 8.1.15 at the Customer's own expense, execute all documents and do all acts and things reasonably required by Banham Security 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 Banham Security to enable Banham Security to fulfil our obligations hereunder;
- 8.1.16 at the Customer's own expense, execute all documents and do all acts and things reasonably required by Banham Security 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 Banham Security to enable it to fulfil its obligations hereunder; and
- 8.1.17 provide to Banham Security in a timely manner all data, information and documentation reasonably required by Banham Security (as well as answers to queries and decisions, reasonably requested by Banham Security) to enable Banham Security to perform its obligations under the Contract and will ensure that such data, information and documentation is complete and accurate.

8.2 If Banham Security's performance of any of its obligations in respect of the Services and/or Equipment is prevented or delayed by any act or omission by the Customer or failure or delay by the Customer to perform any relevant obligation ("**Customer Default**"):

- 8.2.1 Banham Security shall have the right, without limiting its other rights or remedies, to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Banham Security performance of any of its obligations under a Contract;
- 8.2.2 Banham Security shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Customer's failure or delay to perform any of its obligations as set out in this **clause 8**; and the Customer shall reimburse Banham Security on written demand for any costs or losses sustained or incurred by Banham Security arising directly or indirectly from a Customer Default.

## 9. MONITORING AND MAINTENANCE SERVICES

9.1 **Clause 9.2** will apply to the Contract if and to the extent that the Order includes Monitoring Services, **clause 9.3** will apply to the Contract if and to the extent that the Order includes Maintenance Services.

9.2 The Customer agrees that:

- 9.2.1 a suitable local area network ("**LAN**") where applicable is available and operational at the Premises for 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. Failure to do so will result in Banham Security Monitoring the Security System without proper signaling, which

may cause repeated fault signals to be notified, including the failure or intermittent loss of any GPRS or IP signal;

- 9.2.2 in the case of single path communication any prolonged interference with the LAN or Wi-Fi connection (including power outages) will result in missed signals to the Alarm Receiving Centre and Banham Security shall have no liability for any delay in the reporting of any emergency device signals including fire detection, panic alarms / hold up buttons and water leak detection resulting from such interference;
- 9.2.3 Banham Security uses non-geographical phone numbers for its communication receivers and the Customer is responsible for meeting the cost of the additional charges, if any, made by its supplier of telephone and internet connection services as a result of their use in connection with the Monitoring Services, including any call charges resulting from the general operation of the Security System and test calls;
- 9.2.4 even if the Security System is suspended from monitoring with the Alarm Receiving Centre the Security System will continue to send signals, which will result in call charges from your supplier of telephone and internet connection services unless specifically decommissioned by an engineer;
- 9.2.5 if changes to the environment at the Premises (such as the overgrowing of trees) cause the Security System to be falsely activated, Banham Security will ask the Customer to remedy the situation and, if the Customer fails to do so, Banham Security will be entitled to disconnect the relevant part of the Security System without liability to the Customer;
- 9.2.6 the functioning of the Security System may be affected by changes to the layout of the Premises and the Customer should notify Banham Security of any such changes so that Banham Security can advise on whether or not any additions or amendments to the Security System are required;
- 9.2.7 notwithstanding the Customer's preferred level of response to a Security Breach, Banham Security may contact the police on any occasion if it identifies a threat to any person or is required to do so by any Legal Requirement;
- 9.2.8 Banham Security cannot guarantee that the emergency services or the Emergency Contacts will respond appropriately to a Security Breach reported to them by Banham Security;
- 9.2.9 subject to **clause** 15.5, Banham Security does not warrant that the Customer's use of the Monitoring Services will be uninterrupted or error free and Banham Security will not be liable for any failure or delay in providing the Monitoring Services or any poor performance of the Monitoring Services or any other loss or damage which is due to:
  - (a) a defect in any part of the Security System which has not been provided and Installed by Banham Security; or
  - (b) any defect in the Equipment which is caused by any factor referred to in **clause** 4.6; or
  - (c) any failure or interruption of the transmission of the signal from the Security System which is caused by power failures or a problem with telephone or internet connection at the Premises or wireless transmissions from the Equipment; or
  - (d) the storage of Customer data on servers or the transfer of data over communications networks and facilities (including the internet) owned or operated by third parties and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such third-party servers or communications facilities; and
- 9.2.10 Banham Security will perform a line test on the Security Equipment once in every 24 hour period and as such the Customer acknowledges that it may take up to 24 hours for a fault in the Security System to be notified to Banham Security and the Customer agrees that Banham Security shall have no liability to the Customer 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.

### 9.3 The Customer agrees that:

- 9.3.1 as part of the Maintenance Services Banham Security will visit the Premises on an annual basis to carry out a full system check and change batteries, if Banham Security is unable to access the Premises at the scheduled time on the scheduled date the Customer may re-book the visit at no extra charge provided the Customer makes such booking within 24 hours of the original scheduled visit, after this time, the visit will be deemed to have been completed and will be closed on Banham Security's system, however, in the event that the Customer has denied Banham Security access to

the Premises and does not re-book within 24 hours the Customer shall not be entitled to any refund of any payment made in respect of the original scheduled visit;

- 9.3.2 any maintenance visits missed due to default by Banham Security can be re-booked at no extra charge to the Customer, however, if this is not possible or acceptable to the Customer Banham Security will reimburse one third of the annual maintenance contract Fees;

## 10. KEYHOLDING SERVICES

10.1 This **clause** 10 applies if and to the extent that the Services include Keyholding Services

10.2 The Customer agrees in relation to the holding of Keys by Banham Security that:

- 10.2.1 we shall hold the Keys received from you for the Premises;
- 10.2.2 the Keys shall be kept sealed in a secured key room, in accordance with BS 7984-1:2016 (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 the Customer provides Banham Security with the correct Keys and codes required to gain access to the Premises to enable Banham Security to perform its obligations under the Contract;
- 10.2.4 the Customer may request delivery of the Keys or Banham Security's attendance at any time at the cost shown in the Proposal;
- 10.2.5 the Customer may request duplicates of the Keys at any time during Business Hours;
- 10.2.6 subject to **clauses** 10.2.7 and 10.2.8, Keys will be made available for collection by the Customer at any time during Business Hours;
- 10.2.7 Keys which are not collected by the Customer within three months of termination of the Contract in relation to the Keyholding Services will be destroyed;
- 10.2.8 Banham Security shall be entitled to retain Keys until all outstanding payments due from the Customer under the Contract have been paid in full;
- 10.2.9 Banham Security 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 Banham Security will not be held liable for being unable to gain access to the Premises due to the incorrect Keys or codes being provided by the Customer;
- 10.2.11 if the Customer's Keys are lost as a result of any act or omission of Banham Security, Banham Security shall notify the Customer forthwith (and advise the Customer to change its locks with replacement locks that are the same, or are similar in design, functionality, specification, and cost of the original locks). Banham Security shall reimburse the Customer for the cost of suitable replacement locks on presentation of proof of purchase;
- 10.2.12 Banham Security will have no liability to the Customer for any loss or damage of any kind including any loss consequent on our loss of any Keys which occurs later than five days from Banham Security notifying the Customer of the loss or the locks being changed, whichever comes first;
- 10.2.13 the Customer must inform Banham Security of any changes that might affect its performance of the Keyholding Services (including changes to the layout of or locks at the Premises or to the contact details for the Emergency Contacts); and
- 10.2.14 Banham Security will start providing the Keyholding Services from the date on which the Keys are first made available to Banham Security.

10.3 The Customer agrees that in providing the Keyholding Services, Banham Security will not under any circumstances do or commit to do anything that would amount to Banham Security assuming the powers of the Police.

## 11. INSTALLATION SERVICES

- 11.1 If and to the extent that the Services consist of or include Installation Services, the Customer acknowledges and agrees that:
- 11.1.1 it must prepare the Premises in the manner described and using the materials recommended in the Proposal at its own cost before Banham Security commences the Installation Services and that in the event of the Customer failing to prepare the Premises or to use the recommended materials, Banham Security shall have no liability to the Customer for any loss, damage, cost, expense, claim, demand or proceedings arising out of or connected to such failure;
  - 11.1.2 in the event that the Customer cancels the Installation Services less than 24 hours before the start date or Banham Security arrives 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 Security is prevented from commencing the Installation Services the Customer:
    - (a) shall be responsible for reimbursing to Banham Security upon request all of Banham Security's wasted costs reasonably incurred in attending at the Premises; and
    - (b) shall be responsible for arranging a new start date for the Installation Services with Banham Security; and
    - (c) agrees that Banham Security 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;
  - 11.1.3 apart from damage, which is caused by Banham Security negligence, Banham Security will not be liable to make good any damage to the Premises or any third-party equipment resulting from the Installation Services and for the avoidance of doubt, Banham Security shall in no circumstances have any liability for damage caused to concealed services, floor coverings or other décor within the Premises;
  - 11.1.4 the operation of the Security System may be interrupted or prevented during the carrying out of the Installation Services;
  - 11.1.5 where applicable the Customer 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;
  - 11.1.6 Banham Security will not be responsible for any conduit or containment unless specifically documented in the Proposal, including redecoration or making good/civil works;
  - 11.1.7 Banham Security will only reuse parts of the Customer's existing Security System or other equipment if they are compatible with the Equipment and in good working order and the Customer must replace any such parts or equipment that do not meet these criteria; and
  - 11.1.8 the locations indicated in the Proposal for the Installation of the Equipment are provisional only and, if our installers recommend relocating the Equipment in alternative locations, the Customer will not unreasonably withhold its consent.
- 11.2 In the event that the Customer believes the Installation Services fail to comply with the warranty in **clause 7.5** or due to Banham Security negligence Banham Security has caused damage to the Premises or any third party equipment, the Customer shall notify Banham Security within five Business Days of the failure or damage coming to the Customer's attention following which Banham Security will investigate the alleged failure or damage (and the Customer shall provide all reasonable assistance required by Banham Security to carry out such investigation including providing access to the Premises) and if in Banham Security's opinion (acting reasonably) the Installation Services do not comply with the warranty in **clause 7.5 ("Failed Services")** or the damage is Banham Security responsibility as set out in **clause 11.1.3 ("Agreed Damage")** Banham Security will in respect of Failed Services at Banham Security's option re-perform the Failed Services so that they comply with the warranty in **clause 7.5** or refund the charges for such Services and in respect of Agreed Damage Banham Security will repair the damage or arrange for the damage to be repaired at its cost. The remedies set out in this **clause 11.2** are the Customer's sole remedies in respect of Failed Services or Agreed Damage and if the Customer fails to notify Banham Security as required by this **clause 11.2** and/or arranges for a third party to re-perform the Installation Services or repair the damage to the Premises or third party equipment without Banham Security prior written consent and agreement to the cost, Banham Security will have no liability to re-perform the Installation Services, repair the damage or reimburse any of the costs, charges or expenses of the employed third party incurred by the Customer.

## 12. CHARGES AND PAYMENT

- 12.1 The Fees shall be as set out in the Proposal or, if none are quoted, in Banham Security's published price list at the Commencement Date, subject to any increases permitted by these Conditions or otherwise agreed from time to time. The Fees are exclusive of all costs and charges of packaging, insurance and transport of the Equipment ("**Costs**"), Third Party Fees and Expenses all of which will be invoiced separately in accordance with **clause** 12.3.2 and payable by the Customer in accordance with **clause** 12.6.
- 12.2 Where applicable the Customer must pay the Deposit upon placement of the Order except where the Customer has chosen to pay by instalments by way of direct debit in which case the Deposit shall be payable as part of the instalments. Where the Customer has chosen to pay by direct debit monthly instalments but then cancels the Order prior to completion of the Installation Services, for the purposes of **clause** 16.7 Banham Security will take the Deposit from the direct debit mandated account.
- 12.3 Banham Security will invoice the Customer:
- 12.3.1 for the balance of the price (or the entire price where payment is by direct debit instalments) of the Equipment and the charges for the Installation Services anytime following completion of the Installation Services; and
- 12.3.2 for the charges for the Recurring Services, Costs, Third Party Fees and Expenses at the intervals set out in the Proposal (where there is an Extended Initial Period in accordance with **clause** 3.3, all Contract billing will be aligned to this new period).
- 12.4 In addition to Banham Security's other rights under these Conditions to increase its charges, Banham Security reserves the right to increase charges for the Recurring Services, provided that such charges cannot be increased more than once in any 12-month period.
- 12.5 In addition to **clause** 12.4, Recurring Charges may also increase in the event that additional Equipment is installed at the Premises.
- 12.6 The Customer must pay Banham Security's invoices within 7 days of the date of invoice in the case of service call outs and in all other cases within 30 days of the date of invoice in full and cleared funds to a bank account nominated in writing by Banham Security or via any other payment method approved by Banham Security. Where the Customer has provided Banham Security with a direct debit bank mandate, Banham Security will take payment of the invoices automatically 7 or 30 days after the date of the invoice as appropriate.
- 12.7 Subject to setting up a direct debit mandate in Banham Security's favour, the Customer may pay invoices in monthly instalments and the Customer's designated account will be charged automatically each month following completion of the Installation Services.
- 12.8 All charges payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**") which the Customer will pay to Banham Security in addition to the charges and at the same time as payment of the charges is due.
- 12.9 If the Customer does not pay for the Services as required by these Conditions, then Banham Security may suspend the Services including without limitation disabling access to the App until the Customer has paid the outstanding amounts. If having had their Services suspended the Customer subsequently pays all outstanding amounts Banham Security will use reasonable endeavours to reinstate the Customer's Services within 48 hours of receipt of payment and the Customer shall have no claim of whatever nature in respect of the non-availability of the Services during such 48-hour period.
- 12.10 If the Customer fails to make any payment due to Banham Security under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of eight per cent above the base rate from time to time of Banham Security's 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. The Customer shall pay the interest together with the overdue amount. In the event that the Customer cancels their direct debit before all instalments have been paid, all remaining instalments shall immediately become due and payable, and the total outstanding balance shall be subject to interest in accordance with this **clause** 12.9.
- 12.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Banham Security may, without limiting its other rights or remedies, set off any amount owing to Banham Security by the Customer against any amount payable by Banham Security to the Customer.
- 12.12 The Proposal is provided to the Customer in line with the information given to Banham Security by the Customer at the time of survey. Any Orders placed are in accordance with that information and any variation to the Premises or environment after the point of Order, which may result in a change of the Proposal, will be chargeable by Banham Security. The Customer may also by written notice to Banham Security, at any time, request a variation to the specification. In the event that Banham Security agrees to any variation, the charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and Banham Security.

### **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 Banham Security.
- 13.2 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights in the Services and/or Equipment, the Customer's use of any such Intellectual Property Rights is conditional on Banham Security obtaining a written licence from the relevant licensor on such terms as will entitle Banham Security to license such rights to the Customer.

### **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. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

- 15.1 Except as set out in this **clause** 15, all conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the supply, non-supply or delay in supplying the Equipment and Services are excluded to the extent permitted by law.
- 15.2 The Customer acknowledges and agrees that Banham Security does not warrant or guarantee that the provision of the Equipment and/or Services will eliminate the possibility of a Security Breach or obviate the requirement for the Customer to insure the Premises.
- 15.3 Subject to **clause** 15.5, Banham Security is not liable to the Customer in contract, tort or otherwise for any of the following losses arising out of or in connection with the Equipment and Services or otherwise in connection with the Contract: loss of damage incurred by the Customer as a result of third party claims, loss of actual or anticipated profits, loss of business opportunity, loss of anticipated savings, loss of goodwill, injury to reputation or any indirect, special or consequential loss howsoever caused, even if Banham Security were advised of the possibility of them in advance.
- 15.4 Subject to **clauses** 8.2.2, 15.3 and 15.5, the entire liability of Banham Security 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 a sum equivalent to the Fees paid by the Customer under the Contract in the 12 months immediately preceding the date the liability arose.
- 15.5 Nothing in these Conditions shall operate to exclude or restrict Banham Security's liability for:
- 15.5.1 death or personal injury resulting from negligence;
  - 15.5.2 breach of the obligations arising from section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
  - 15.5.3 breach of the obligations arising from the Data Protection Act 2018; or
  - 15.5.4 fraud or deceit.
- 15.6 This **clause** 15 shall survive termination of the Contract.

### **16. TERMINATION**

- 16.1 Either party may terminate the Contract immediately on written notice to the other party if that other party:
- 16.1.1 is subject to an Insolvency Event;
  - 16.1.2 ceases or threatens to cease to exist or carry on its business; or
  - 16.1.3 is in material breach of the Contract and either that breach cannot be remedied or has not been remedied 30 days after the other party received a notice specifying the breach and requiring it be remedied.
- 16.2 Without limiting its other rights or remedies, Banham Security may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer:
- 16.2.1 fails to pay any amount due under a Contract on the due date for payment; or
  - 16.2.2 the Customer's financial position deteriorates to such an extent that in Banham Security's opinion the

Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

- 16.3 Either party may cancel the Contract in relation to Recurring Services by giving not less than 5 Business Days' written notice. If the Contract is cancelled within the Initial Period or Extended Initial Period, except as set out in **clause 16.4**, there will be no refund or credit owed to the Customer for any sums paid in advance for the Recurring Services in respect of the period from the date of termination to the expiry of the Initial Period or Extended Initial Period as appropriate ("**Remaining Balance**").
- 16.4 Where the Customer is moving from one property to another and has entered into a new Contract for Recurring Services in respect of the new property prior to termination in accordance with **clause 16.3**, then the Remaining Balance will be credited to the new Contract. Without limiting its other rights or remedies, Banham Security may suspend the Services (including without limitation disabling access to the App) or deliveries of Equipment under the Contract or any other contract between the Customer and Banham Security if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events referred to in **clause 16.1.1** or **clause 16.1.2**, or Banham Security reasonably believe that the Customer is about to become subject to any of them.
- 16.5 On termination of the Contract for any reason:
- 16.5.1 the Customer shall immediately pay to Banham Security all of Banham Security's outstanding unpaid invoices and interest and, in respect of Equipment and/or Services supplied but for which no invoice has yet been submitted, Banham Security shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 16.5.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 16.5.3 clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 16.6 The Customer can cancel or change the specification of Installation Services and any Order of Equipment by giving Banham Security written notice. However, in the event of cancellation, Banham Security will retain the Deposit except in the case of cancellation of an Order for non-bespoke Equipment which is made more than 48 hours before the agreed Installation Date.

## 17. EVENTS OUTSIDE OUR CONTROL

- 17.1 Banham Security shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of an Event Outside Our Control.
- 17.2 If the Event Outside Our Control prevents Banham Security from providing any of the Services for more than four weeks, Banham Security shall, without limiting our other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

## 18. DATA PROTECTION

- 18.1 For the purposes of the Contract Banham Security is the Data Processor and the Customer is the Data Controller
- 18.2 Each party shall comply with all relevant Data Protection Laws relating to the Processing of Personal Data, together with all reasonable requirements of the other party. To the extent that either party ("**Processor Party**") is Processing Personal Data on behalf of the other party ("**Controller Party**"), the provisions of **clause 18.3** below shall apply to such Processing.
- 18.3 Unless otherwise authorised in writing by the Controller Party, the Processor Party shall:
- 18.3.1 process the Personal Data (and shall maintain records of such processing activities) strictly in accordance with the documented instructions of the Controller Party (the "**Permitted Purpose**"), except where otherwise required by any law applicable to the Processor Party. In no event shall the Processor Party:
- (a) process the Personal Data for its own purposes or those of any third party;
  - (b) assume any responsibility for determining the purposes for which and the manner in which the Personal Data is processed;
  - (c) disclose the Personal Data to any third party (other than its authorised subcontractors) without the prior consent of the Controller Party, except where and to the extent disclosure is required

by any law applicable to the Processor Party; or

- (d) process the Personal Data in any way that would cause the Controller Party to breach any of its obligations under applicable Data Protection Laws.

- 18.3.2 give written notice to the Controller Party of any requirement to disclose Personal Data under **clause 18.3.1(c)** promptly after becoming aware of that requirement;
- 18.3.3 provide all reasonable and timely assistance (including by appropriate technical and organisational measures) to the Controller Party (at its own expense) to enable the Controller Party to respond to: (i) any request from a data subject to exercise any of its rights under applicable Data Protection Laws (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator or other third party in connection with the processing of the Personal Data. In the event that any such request, correspondence, enquiry or complaint is made directly to the Processor Party, they shall promptly inform the Controller Party providing full details of the same;
- 18.3.4 not subcontract any processing of the Personal Data to a third-party subcontractor without the prior written consent of the Controller Party. Notwithstanding this, the Controller Party consents to the Processor Party engaging third party subcontractors to process the Personal Data provided that: (i) the Processor Party provides at least 30 days' prior notice of the addition or removal of any subcontractor (including details of the processing it performs or will perform; (ii) the Processor Party imposes data protection terms on any subcontractor it appoints that protect the Personal Data to the same standard provided for by this **clause 18**; and (iii) the Processor Party remains fully liable for any breach of this **clause 18** that is caused by an act, error or omission of its subcontractor. If the Controller Party refuses to consent to the Processor Party's appointment of a third-party subcontractor on reasonable grounds relating to the protection of the Personal Data, then either the Processor Party will not appoint the subcontractor, or the Controller Party may elect to suspend or terminate this Agreement without penalty;
- 18.3.5 upon becoming aware of a Security Incident, inform the Controller Party immediately and shall provide all such timely information and cooperation as the Controller Party may reasonably require, including in order for the Controller Party to fulfil its data breach reporting obligations under (and in accordance with the timescales required by) applicable Data Protection Laws. The Processor Party shall further take all such measures and actions as are necessary to remedy or mitigate the effects of the Security Incident and shall keep the Controller Party up to date of all developments in connection with the Security Incident;
- 18.3.6 where requested by the Controller Party, provide details of the Personal Data relating to the Contract held by it in relation to any individual promptly after its receipt of the Controller Party's request;
- 18.3.7 bring into effect and maintain appropriate technical and organisational measures:
  - (a) to maintain security; and
  - (b) to prevent unauthorised or unlawful access to or processing of personal data and accidental loss or destruction of, or damage to, Personal Data,and shall supply a detailed written description of such measures on request, which must contain sufficient detail to enable the other party to determine whether or not any applicable Personal Data is being or has been processed in compliance with all relevant Data Protection Laws relating to the Processing of Personal Data;
- 18.3.8 permit the Controller Party (or its appointed third-party auditors bound by a duty of confidentiality) to audit the Processor Party's compliance with this **clause 18** and shall make available to the Controller Party all information, systems and staff necessary for the Controller Party (or its third-party auditors) to conduct such audit. The Processor Party acknowledges that the Controller Party (or its third-party auditors) may enter its premises for the purposes of conducting this audit, provided that the Controller Party gives it reasonable prior notice of its intention to audit, conducts its audit during normal business hours, and takes all reasonable measures to prevent unnecessary disruption to the Processor Party's operations. The Controller Party will also exercise its audit rights (i) if and when required by instruction of a Supervisory Authority; or (ii) if the Controller Party believes a further audit is necessary due to a Security Incident suffered by the Processor Party;
- 18.3.9 upon termination of the Agreement, the Processor Party shall (at the Controller Party's election) promptly destroy or return to the Controller Party all Personal Data (including all copies of the Personal Data) in its possession or control (including any Personal Data subcontracted to a third party for processing). This requirement shall not apply to the extent that the Processor Party is required by any law to retain some or all of the Personal Data, in which event the Processor Party shall isolate and protect the Personal Data from any further processing except to the extent required by such law.

- 18.4 Any Personal Data which is provided by the Customer to Banham Security will be processed and stored by



Banham Security in accordance with Banham Security's privacy policy which can be accessed at <https://www.banham.co.uk/privacy-promise/>.

- 18.5 For processing of Personal Data in connection with this Contract: the duration of the processing is for the term of the Contract or such longer period as is required by law; the subject matter, nature and purpose is the storage of Personal Data and the sharing of Personal Data between the parties and their respective group companies to allow performance of the parties' obligations pursuant to the Contract; types of Personal Data subject to processing pursuant to the Contract are names, addresses, email addresses, and the categories of data subjects are Banham Security and Customer contact details, employees of Banham Security and the Customers and any contact details of any Emergency Contacts.

## **19. ZERO TOLERANCE TO SEXUAL HARASSMENT POLICY**

### **19.1 Introduction**

- 19.1.1 At Banham, we are committed to providing a safe, respectful, and supportive environment for everyone we interact with, including employees, customers, business partners, contractors, and the public. Sexual harassment, in any form, is strictly prohibited and will not be tolerated. Our commitment to this policy extends beyond our workplace, ensuring all individuals are treated with dignity and respect in all situations related to our business, both on and off-site.

### **19.2 Scope**

- 19.2.1 This policy applies to all individuals associated with Banham, including employees, consumers, businesses, contractors, suppliers, and any third parties who may interact with our workforce in connection with our services or products. We take a proactive approach to preventing sexual harassment and have established clear reporting mechanisms for any incidents, ensuring that those affected can seek immediate redress.

### **19.3 Definition of Sexual Harassment**

- 19.3.1 Sexual harassment is defined as any unwanted behaviour of a sexual nature that creates a hostile, degrading, intimidating, or offensive environment. This includes actions that affect someone's dignity or create an atmosphere where they feel uncomfortable, humiliated, or threatened. Sexual harassment can be verbal, non-verbal, or physical and may be directed at an individual or witnessed by them. It can occur in person, via digital means (including emails, social media, or messaging platforms), or through other forms of communication.

Examples of sexual harassment include, but are not limited to:

- (a) Making sexual jokes, comments, or suggestions
- (b) Displaying sexually explicit images or materials
- (c) Unwelcome advances or propositions
- (d) Sending sexually explicit messages or emails
- (e) Spreading rumours about someone's sexual life
- (f) Engaging in unwanted physical contact or gestures
- (g) Harassing or intrusive questioning about an individual's sex life

### **19.4 Policy Coverage**

- 19.4.1 This policy applies to sexual harassment that occurs in the following circumstances:

- (a) During work-related activities, including interactions within the workplace or any location where work is being performed
- (b) At work-related social events, business trips, or functions
- (c) Outside of work, but involving Banham employees, consumers, or business partners, such as through online communication or social media platforms

- (d) Situations where third-party harassment impacts the suitability of a person to perform their role

## 19.5 Third-Party Sexual Harassment

- 19.5.1 We are committed to preventing and addressing sexual harassment committed by third parties, such as customers, suppliers, or members of the public. Any instance of third-party sexual harassment will be met with zero tolerance. We will take the following actions to ensure a harassment-free experience:
- (a) Include a zero-tolerance sexual harassment clause in our Terms and Conditions for both consumers and businesses
  - (b) Inform third-party business partners (suppliers, contractors, etc.) of our sexual harassment policy through relevant documentation
  - (c) Display a clear statement of our zero-tolerance policy on our website
- 19.5.2 If you experience sexual harassment by a third party, we encourage you to report it immediately to the appropriate department. If a customer is found to have engaged in sexual harassment, we may issue a warning and, if necessary, ban the individual from further interactions. Criminal actions will be reported to the authorities as appropriate.
- 19.5.3 We will not tolerate any member of our workforce engaging in sexual harassment towards a third party. Any such behaviour will be addressed through disciplinary action, which may include termination of employment.

## 19.6 Training and Education

- 19.6.1 Banham provides mandatory training on sexual harassment for all employees to ensure that everyone understands:
- (a) What constitutes sexual harassment
  - (b) Our zero-tolerance policy towards harassment
  - (c) How to report incidents of harassment or witness harassment
  - (d) The expected standards of behaviour in all business interactions
- 19.6.2 Management will receive additional training to properly implement and enforce this policy, including how to prevent, address, and report incidents of sexual harassment. Training effectiveness will be regularly reviewed, and refresher courses will be provided as necessary.

## 19.7 Enforcement and Accountability

- 19.7.1 We are committed to ensuring that any incident of sexual harassment is addressed swiftly, fairly, and consistently. Anyone found to be engaging in harassment will face immediate corrective action, including potential termination of employment or business relationships.
- 19.7.2 Banham will continuously review and update this policy to ensure a safe, respectful, and inclusive environment for everyone connected to our business

## 20. GENERAL

- 20.1 **Assignment.** Banham Security may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of our rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party. The Customer shall not, without Banham Security's prior written consent, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 20.2 **Notices.** Any notice or other communication required under these Conditions must be in writing and service must be by one of the following methods:

- (a) personally (when service shall be effective on delivery); or
- (b) by recorded delivery (when service shall be effective on delivery).

and a party's address for services will be its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause.

- 20.3 **Severance.** Each of the provisions of these Conditions is distinct and severable from the others. If any of those provisions is or becomes invalid or unenforceable (whether wholly or partly), the validity and enforceability of the remaining provisions (or the same provision to any other extent) shall not be affected or impaired in any way. If any provision of these Conditions is or becomes invalid or unenforceable (whether wholly or partly) then the provision shall apply with the minimum deletion or modification necessary to make it valid or enforceable.
- 20.4 **Waiver.** A party can only waive a right or remedy provided in these Conditions or by law by express written notice. No failure or delay to exercise any power, right or remedy under these Conditions shall operate as a waiver of it. Any single or partial exercise or waiver of any power, right or remedy shall not preclude its further exercise or the exercise of any other power, right or remedy. All rights of any person contained in this agreement are in addition to all rights vested or to be vested in it pursuant to common law or statute. No election by Banham Security to affirm the Contract will be effective unless it is made in writing.
- 20.5 **No partnership or agency.** Nothing in the Contract shall be deemed to constitute a partnership or agency relationship between the parties or any other person. Save as expressly provided in these Conditions, the execution, completion and implementation of this agreement shall not confer on either party or any other person any power to bind or impose any obligations on the other party.
- 20.6 **Third party rights.** Nothing under these Conditions confers any rights on any person under the Contracts (Rights of Third Parties) Act 1999.
- 20.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Banham Security.
- 20.8 **Governing law.** The Contract and all disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales.
- 20.9 **Jurisdiction.** The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to determine any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).