

somfy® TERMS AND CONDITIONS OF SALE

L NOTICE OF IMPORTANT RIGHTS, OBLIGATIONS, AND CONDITIONS

These Terms and Conditions of Sale (the "Terms" or "Terms and Conditions of Sale") apply to the purchase and sale of products and services from Somfy Systems, Inc. ("SOMFY"), having an address of 121 Herold Boulevard, Dayton, New Jersey 08810. When used herein, the term "Buyer" refers to any person purchasing or offering to purchase products from SOMFY. Without limitation, these Terms apply to direct purchases from SOMFY (e-commerce website(s)) (the "Site" or "Website") or from an employee, independent contractor or other authorized representative of SOMFY (a "SOMFY Representative"). This document contains important information regarding Buyer's rights and obligations, as well as conditions, limitations, and exclusions that might apply to Buyer. Please read it carefully.

BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM SOMFY (INCLUDING DIRECTLY FROM SOMFY, THROUGH THE WEBSITE OR FROM A SOMFY REPRESENTATIVE), BUYER ACCEPTS AND IS BOUND BY THESE TERMS.

THESE TERMS CONTAIN A WAIVER OF THE RIGHT TO A TRIAL BY JURY AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION.

BUYER MAY NOT ORDER OR OBTAIN PRODUCTS FROM SOMFY IF BUYER: (A) DOES NOT AGREE TO THESE TERMS; (B) IS NOT THE OLDER OF (I) AT LEAST 18 YEARS OF AGE OR (II) LEGAL AGE TO FORM A BINDING CONTRACT WITH SOMFY; OR (C) IS PROHIBITED FROM ACCESSING OR USING THE WEBSITE OR ANY OF THE WEBSITE'S CONTENTS, GOODS OR SERVICES BY APPLICABLE LAW.

These Terms are subject to change by SOMFY without prior written notice at any time, in SOMFY's sole discretion. The latest version of these Terms will be posted on the Site, and Buyer should review these Terms before purchasing any product or services that are available from SOMFY. Buyer's subsequent purchase after a posted change in these Terms will constitute Buyer's acceptance of and agreement to such changes.

These Terms are an integral part of the website Terms of Use that apply generally to the use of Buyer's Site. Buyer should also carefully review Buyer's Privacy Policy before placing an order for products or services directly from SOMFY, through the Site or from a SOMFY Representative (see Section XVII).

Certain of these Terms are intended to apply only to Professionals, and certain are intended only to apply to Consumers. The term "Professionals" means Buyers that purchase SOMFY products for resale or incorporation into other products intended for sale. "Consumers" are Buyers that are not Professionals. Provisions which apply to only certain customers begin with the designation for Professionals or for Consumers. Any provisions which do not contain such a designation apply to all Buyers.

II. ACCEPTANCE OF ORDERS

All Buyer's orders must either be written on Buyer's purchase order or SOMFY's order form and signed by Buyer. SOMFY is not bound by any terms listed on Buyer's order form or other documents which add to or conflict with these Terms and Conditions of Sale. Upon receiving SOMFY's order acknowledgment, Buyer is considered to have accepted these Terms and Conditions of Sale. No order, quotation or acknowledgment or provisions of these Terms and Conditions of Sale shall be subject to change in any respect, except as may be expressly agreed to in writing by an authorized representative of SOMFY. To improve Buyer's satisfaction, SOMFY requests that Buyer indicate as early as possible any project leading to high-volume orders. Failure of SOMFY to object to provisions contained in any purchase order or other communication from a Buyer (including, without limitation, penalty clauses or labor charges), shall not be construed as a waiver of these Terms and Conditions of Sale, nor an acceptance of any such provisions.

These Terms and Conditions of Sale, any reseller agreement by and between Buyer and SOMFY (the "Reseller Agreement"), and any additional writings signed by a duly authorized representative of SOMFY, constitute the entire agreement between SOMFY and Buyer. No other representations, warranties or terms shall be binding against SOMFY. In the event of any conflict between the terms of these Terms and Conditions of Sale and the Reseller Agreement, the terms of the Reseller Agreement shall control. **IN NO EVENT SHALL SOMFY BE RESPONSIBLE OR LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF ITS AGREEMENT WITH BUYER.** These Terms and Conditions of Sale do not establish a franchise or agency relationship and do not grant rights to any of SOMFY's (or any of its affiliates') trademarks or other intellectual property or create any other expressed or implied licenses.

III. PRICES

Prices and specifications contained in any of SOMFY's catalogues, advertisements, flyers, circulars, price lists or other materials furnished by Buyer to SOMFY are subject to change without notice. Written quotations are good thirty (30) days from the date of the quotation unless otherwise specified in writing. All prices posted (whether delivered in writing by SOMFY, posted on the Site or provided in writing by a SOMFY Representative) are subject to change without notice. For Consumers, the price charged for a product or service will be the price in effect at the time the order is placed. For Professionals, the price charged will be the price in effect at the time the order is shipped (except as set forth in an unexpired written quotation).

In the event that Buyer wants to postpone the delivery date of a previously accepted order, SOMFY, on its sole discretion, reserves the right to approve such postponement. If SOMFY agrees in writing to a postponed delivery date, then the price that will apply to that order shall be the price in effect on the postponed shipping date.

Buyer shall pay all transportation charges. Any freight, insurance, packing or other transportation charges paid by SOMFY shall be in addition to quoted prices, and Buyer shall reimburse SOMFY for the same whether or not such amounts are separately stated on the invoice. Advertised or quoted prices do not include any federal, state or local sales, use, value-added or excise taxes, customs duties, imports or other assessments of any kind, which may arise from the manufacture, sale or shipment of products to Buyer, and Buyer shall be responsible for any and all such taxes, duties or other assessments. If SOMFY has the legal obligation to collect any such taxes, duties or other assessments, the appropriate amount shall be added to SOMFY's invoice to Buyer and paid by Buyer, unless Buyer provides SOMFY with a valid exemption certificate authorized by the appropriate governmental authority. If, for whatever reason, SOMFY fails to collect any such amount from Buyer and SOMFY becomes liable to pay any such taxes, duties or other assessments or any penalties related thereto, Buyer shall immediately pay such amounts directly to the appropriate governmental authority or, if SOMFY is required to pay or has paid such amounts, Buyer shall immediately pay such amounts to SOMFY.

IV. TERMS OF PAYMENT

Terms of payment are as specified on SOMFY's order acknowledgment and on SOMFY's invoice, regardless of terms indicated in Buyer's order form or other documents.

For credit card purchases, Buyer represents and warrants that: (i) the credit card or account information Buyer supplies to SOMFY is true, correct, and complete; (ii) Buyer is duly authorized to use such credit card or account for the purchase; (iii) charges incurred by Buyer will be honored by Buyer's credit card company or payment service provider; and (iv) Buyer will pay charges incurred by Buyer at the posted prices, including all applicable taxes, if any. Buyer's credit card will be charged at the time Buyer's order is shipped based upon the quantity of order shipped.

Any outstanding balances unpaid on the due date shall be subject to payment of an interest charge until paid at the maximum legally permissible rate of interest allowed by the state or other governmental authority having jurisdiction of the transaction. In the event of substantial changes in the financial situation of Buyer, including but not limited to bankruptcy or change in the credit rating of Buyer's shareholders, members or partner, SOMFY reserves the right to cancel the purchase order without any liability for damages to Buyer.

If an order involves partial shipments, failure to pay for a partial shipment entitles SOMFY to hold subsequent deliveries until payment of past due shipments is made.

SOMFY shall retain ownership of all products until payment is made in full to SOMFY. Payment shall only be deemed effective when payment has been received by SOMFY. In the event of non-payment of all or part of the price owed, SOMFY may seek repossession of the products delivered at Buyer's expense and risk. SOMFY's exercise of repossession as a remedy is in addition to and cumulative of any other remedies available to it.

If resale of products is in the ordinary course of business and scope of Buyer's business, Buyer may resell the delivered products before complete payment to SOMFY, provided, however, that Buyer has not commenced or is not otherwise subject to any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, liquidation or similar proceeding. Buyer shall not under any circumstance create or suffer to be created by any other person any bill, pledge, mortgage, lien, lease or assignment of the products to any other party of security. If Buyer sold products subject to reservation of title, Buyer will indemnify SOMFY of the identity of the subsequent buyers and SOMFY shall claim against the subsequent buyers the price of the products unpaid by Buyer, without prejudice to any other right SOMFY may be entitled to under these Terms or applicable law.

V. DELIVERY

All shipments are F.O.B. point of shipment, freight collect, unless otherwise specified by SOMFY. SOMFY shall select the routing and method of transportation if not specified on Buyer's purchase order. Handling fees of \$50 per shipment will be systematically added to any drop shipment.

SOMFY does not guarantee the availability of any product from any particular point of shipment. Claims for loss or damaged shipments shall be reported immediately to the carrier, and annotations shall be placed on all delivery receipts signed by Buyer. Buyer shall inspect the product upon delivery and in the event defects or damages are identified after delivery, the Buyer shall immediately contact the carrier by telephone and, if carrier fails to send an inspector within five (5) days, Buyer shall submit a written request to the carrier, confirming the telephone request for an inspection.

Should Buyer, in the first instance, fail to file a claim with the carrier properly substantiated in accordance with the carrier's rules and within the allowable time-limit, the Buyer shall have waived its right to make a claim for defect against SOMFY and such claim is barred.

VI. SHIPPING DELAYS

Unless otherwise specified by SOMFY, shipping dates provided by SOMFY at the request of Buyer are only estimates. Deviation from estimated shipping dates shall not expose SOMFY to liability for any penalties or damages, nor shall such deviation be an actionable reason for cancellation of an order. SOMFY shall not be responsible for any losses or damages to Buyer (or any third party) occasioned by the non-performance of any of SOMFY's obligations under its agreement with Buyer when due to any cause beyond SOMFY's reasonable control, including without limitation, an act of God, an act or omission of Buyer, an embargo or other governmental act, governmental regulation or request, pandemic, endemic, infectious disease, quarantine or other viral outbreak, fire, theft, accident, strike, slow-down, war, riot, delays in transportation, inability to obtain necessary labor, material or manufacturing facilities.

VII. LIMITED WARRANTY AND LIMITED LIABILITY

THIS LIMITED WARRANTY GIVES BUYER SPECIFIC LEGAL RIGHTS AND BUYER MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

SOMFY LIMITS THE DURATION AND REMEDIES OF ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE DURATION OF THIS LIMITED WARRANTY.

SOMFY warrants that its motors will be free from defects in material and workmanship under normal and proper use for a period of five (5) years starting from the date stamped on the motor. Mechanical, electrical and electronic accessories (excluding batteries other than SOMFY branded embedded and external rechargeable batteries) and other products (collectively, the "Mechanical Accessory Products") are warranted to be free from defects in material and workmanship under normal and proper use for a period of (i) five (5) years from date of manufacture (i) or two (2) years from the date of installation (ii), whichever is longer. SOMFY's only obligation to repair or replace defective product which does not conform to the warranty is that SOMFY SHALL NOT BE LIABLE FOR ANY BODILY INJURY OR PROPERTY DAMAGE, WHETHER SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL OR INCIDENTAL, ARISING OUT OF THE USE OR INCAPABILITY TO USE, THE PRODUCTS, BEFORE USING, BUYER AND/OR THE ULTIMATE USER OF SAID PRODUCTS SHALL DETERMINE THE SUITABILITY OF THE PRODUCT FOR ITS INTENDED USE, AND THE ULTIMATE USER OF SAID PRODUCT ASSUMES ALL RISKS AND LIABILITY IN CONNECTION THEREWITH. THE FOREGOING MAY NOT BE CHANGED EXCEPT IN A WRITTEN AGREEMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SOMFY. Any product replaced pursuant to this limited warranty shall be retained by SOMFY, and Buyer is responsible for any freight costs relating to repair or replacement.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED (INCLUDING ANY OTHER WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

The following are exclusions from warranty:

- If usage, adaptation or installation is not in accordance with SOMFY's installation and operating instructions.
- If the product has been opened, dismantled or returned with evidence of abuse or other damage.
- If SOMFY's written specifications are not properly followed, implemented or applied by Buyer when selecting the product.
- If SOMFY's written instructions for installation and wiring of the electrical connections have not been followed.
- If SOMFY's product has been used to perform functions other than the functions it was designed to handle, namely (A) for motors and accompanying accessories, motorizing window and door enclosures, e.g., shades, roller shades, awnings and projection screens which subject the SOMFY product to conditions which exceed its rated capacity and (B) for control boxes, e.g., implementation of the SOMFY TaHome® system. Please consult SOMFY about warranty for any uses other than the above.
- If SOMFY products are used with electrical accessories (switches, relays, etc.) that have not been previously approved in writing by the SOMFY Engineering Department.
- If electrical accessories and other components have been used in disregard of contrary to the wiring diagram for the device which they were designed.
- Any damages resulting from: transportation, improper installation or use, failure to follow the product instructions or to perform any preventive maintenance, modifications, combination of use with any products, materials, processes, systems or other matter not provided or authorized in writing by SOMFY; unauthorized repair, normal wear and tear, or external causes such as accidents, abuse, or other actions or events beyond SOMFY's reasonable control.

This limited warranty does not apply to software components of products, batteries, or any issues associated with the stability of Buyer's Wi-Fi network. This limited warranty covers only SOMFY products (and not services) and does not cover any other equipment, components, or devices used in conjunction with SOMFY products. This limited warranty does not guarantee that use of any SOMFY product will be error-free or uninterrupted.

Any costs related to installation and reinstatement of the SOMFY products covered by this warranty are not the responsibility of SOMFY. SOMFY will not be responsible for any labor costs related in any way to the warranty or replacement process. SOMFY will not be responsible for any special, incidental, indirect or consequential damages that arise as a result of the installation or re-installation of said products. If any SOMFY products are sold by a third party to Buyer or end user (Third Party Buyer), Buyer shall: (1) conspicuously disclose all SOMFY warranty terms to such Third Party Buyer prior to the Third Party Buyer taking possession of the SOMFY product; (2) expressly include all SOMFY warranty terms as part of its agreement with such Third Party Buyer; and (3) indemnify and hold SOMFY harmless for any liability, damages, or costs directly arising from any failure by Buyer to comply with the requirements of (1) or (2). SOMFY's responsibility to any such Third Party Buyer shall be no greater than SOMFY's responsibility under the warranty to the Buyer. Only if a product is a consumer product and SOMFY is extending a warranty to a consumer (as the terms "consumer product" and "consumer" are defined in 15 U.S.C. § 2301, as same may be amended from time to time), then the following provisions shall apply and shall take precedence over replace and supersede any contradictory provisions set forth in these Terms. This limited warranty extends only to the original purchaser of products and services. It does not extend to any subsequent or other owner or transferee. This limited warranty does not cover any products purchased from third party sellers who may, for example, sell products on sites such as eBay or Amazon.

IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY IMPOSED ON THE SALE OF ANY PRODUCT, IS LIMITED TO (1) IN THE CASE OF ANY MOTOR, FIVE (5) YEARS FROM THE DATE STAMPED ON THE MOTOR, AND (2) IN THE CASE OF MECHANICAL ACCESSORY PRODUCTS (EXCLUDING BATTERIES OTHER THAN SOMFY BRANDED EMBEDDED AND EXTERNAL RECHARGEABLE BATTERIES), (I) FIVE (5) YEARS FROM THE DATE OF MANUFACTURE (II) OR TWO (2) YEARS FROM THE DATE OF INSTALLATION IN THE CASE OF ANY BFT-BRANDED PRODUCTS. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO BUYER.

THE REMEDIES DESCRIBED ABOVE ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES AND SOMFY'S ENTIRE OBLIGATION AND LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. SOMFY'S LIABILITY UNDER CIRCUMSTANCES EXCEEDING THE ACTUAL AMOUNT PAID BY BUYER FOR THE DEFECTIVE PRODUCT, NOR WILL SOMFY UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, WHETHER DIRECT OR INDIRECT. SOMFY IS NOT LIABLE OR RESPONSIBLE FOR INCONVENIENCE, LOSS OF USE, INSTALLATION COSTS, OR UNAUTHORIZED SERVICE COSTS.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO BUYER IF PROHIBITED BY LAW.

VIII. RETURNS

Below please find SOMFY's return policy for Motors, Controls and Mechanical Accessory Products. Returns may be classified under one of two categories, "Return for Credit" (as herein defined) and "Return for Credit" (as herein defined). Returns may only be made by holder of active SOMFY Accounts and must be accompanied by a Return Authorization Number (RA#), issued by SOMFY, as detailed below. The RA# for the return must be clearly marked on the outside of the box. Failure to include the RA# will result in the refusal of the return. It is the responsibility of the Buyer to ensure that all products returned to SOMFY are packaged in a manner that prevents damage to the product during shipment. Under no circumstances will SOMFY be responsible for products damaged due to poor packaging or shipping methods. All return shipments to SOMFY shall be prepaid by Buyer. SOMFY shall pay the cost of shipment back to Buyer, as applicable, at the same level of shipment service at which the product was returned by the Buyer to SOMFY. All parts sold as kits must be returned as kits. Failure to include any item in a multi-component kit will be considered an unauthorized return and therefore be refused.

NO REFUNDS WILL BE PROVIDED ON ANY PRODUCTS DESIGNATED IN WRITING AS NON-RETURNABLE OR ON ANY PRODUCTS THAT ARE CONFIGURED TO-ORDER OR CUSTOMIZED.

RETURN FOR CREDIT

Any product returned to SOMFY for credit will be subject to the following terms and conditions.

A "Return for Credit" must be authorized, in writing by SOMFY through issuance of an RA#, prior to shipment of the product back to SOMFY. For returns with a value of less than \$1,000, Buyer must obtain SOMFY authorization. For returns in excess of \$1,000, Buyer must contact Buyer's SOMFY Sales Manager to obtain authorization. The use of the SOMFY Return for Credit Authorization Form is preferred when requesting authorization; however, authorization may be obtained via phone, fax, email or verbally by providing the SOMFY Sales Order, Buyer Purchase Order or SOMFY Invoice Number of the original purchase together with the reason for the return, the part numbers and the specific quantities of the products being returned. All unauthorized Returns for Credit will be refused.

Return for credit will only be authorized for new, unused product within three (3) months of invoice date. SOMFY will not approve Return for Credit requests for Special Order product (ordered with non-cancelable purchase order), product not included in the current SOMFY Base Price Book or product that required custom fabrication. Credits will not be issued if the product returned for credit appears to have been used, tampered with or arrives without its original packaging. In such circumstances, Buyer will be notified and product will be returned to Buyer.

All Returns for Credit will be subject to a fee of the greater of \$20 or 20% of the invoice value of the returned product. Original shipping fees will not be credited. Under no circumstances shall Buyer deduct the value of any returned product from any remittance due.

All Returns for Credit must be shipped to the nearest SOMFY distribution facility.

RETURN FOR WARRANTY CLAIM

Any product returned to SOMFY due to a claimed defect will be handled as a "Warranty Claim." SOMFY requires that all Warranty Claim Returns be accompanied by an RA#. An RA# may be obtained through the SOMFY Customer Service Department. Use of the SOMFY Warranty Claim form is preferred to document the Warranty Claim Request. A description of the problem should be provided for each product, at the time of return request, and should be clearly marked on each returned product.

Should Buyer wish to track individual products on a return, numerical or alpha-numerical codes may be given to each product by the Buyer. The code must be clearly marked on each product and, if so marked, will be referenced by SOMFY in Return Documents to the Buyer.

All Warranty Claims for products sold by SOMFY must be shipped to: Somfy Systems, Inc., Attn: Returns Dept., 121 Herold Boulevard, Dayton, New Jersey 08810; provided, however, that if a "brand" product must be shipped to Somfy Systems, Inc., Attn: Returns Department, 1200 SW 35th Ave., Suite B, Boynton Beach, FL 33426. SOMFY will analyze each product returned for Warranty Claim. Upon analysis and approval, SOMFY will repair or replace the defective product and provide to Buyer a written summary of the findings. If no defect is found with the product, if the product is out of Warranty or if the product is clearly damaged by abuse or misuse, Buyer will be notified and the product will be returned to Buyer.

CUSTOM PRODUCT REMAKE POLICY

Custom SOMFY Products, such as fabricated Gyx® tracks or Tube Kits, are not eligible to be returned for credit; however, SOMFY realizes that custom products may occasionally be subject to discrepancies of various natures and makes the following provisions for such occurrences.

Should the custom product not match the specifications Buyer submitted to SOMFY, SOMFY will take the best means to adjust or remake the product for Buyer. If a remake is necessary, it will be given priority status and SOMFY will pay for the ground shipping of the remake.

Should the custom product match the specifications Buyer submitted to SOMFY, but not meet Buyer's job site requirements, SOMFY will extend a one time "Opport Discount" of 25% on the remake Sales Order. Motors, Controls or other accessories are not included in this discount. SOMFY will allow only two "Opport Discounts" per customer per year. Standard freight will apply.

IX. GOODS NOT FOR RESALE OR EXPORT

For Consumers: Buyer agrees to comply with all applicable laws and regulations of the various states and of the United States. Buyer represents and warrants that Buyer is buying products or services for Buyer's own personal or household use only, and not for resale or export.

For Professionals: Buyer agrees to be responsible for complying with all laws, regulations, rules related to the sale, resale, export, distribution, packaging of the products to its customers. Buyer agrees not to directly or indirectly export, re-export, distribute or transfer any product(s) to any persons prohibited by any U.S. or International trade laws, regulations or sanctions or orders.

X. INTELLECTUAL PROPERTY RIGHTS

Buyer acknowledges that all right, title and ownership of all intellectual property associated with SOMFY products, including all rights to the product design and trademarks (including, without limitation, the Somfy®, Somfy Drive Control®, Powered by Somfy®, Radio Technology Somfy®, Somfy HIRPO®, Somfy TaHome®, Home Motion®, SimuSet® trademarks) used in connection therewith, shall and remain the exclusive property of SOMFY and its affiliates (collectively, the "SOMFY Affiliates"). Except as expressly authorized by SOMFY, Buyer shall not in any manner, whether in connection with the products or otherwise, use or permit others to use any trademarks which are similar to any trademarks used by the SOMFY Affiliates. SOMFY reserves all rights to approve or reject to any and all advertising and promotional materials of Buyer using product images and trademarks of the SOMFY Affiliates, provided that SOMFY agrees not to unreasonably withhold such approval. Buyer shall not register or file for registration in any country (A) any trademark owned or used by the SOMFY Affiliates, (B) any similar trademark or (C) any domain name that incorporates or is confusingly similar to any trademark owned or used by the SOMFY Affiliates, and shall transfer and assign to the SOMFY Affiliates, without charge, any and all rights in and to all such trademarks and domain names heretofore or hereafter acquired by Buyer anywhere in the world.

XI. SECURITY INTEREST

Risk of loss on all products shall pass to Buyer F.O.B. point of shipment. Buyer hereby grants to SOMFY a security interest in such products until fully paid and Buyer agrees to perform all acts which may be necessary to perfect and maintain the security interest of SOMFY in such products. In the event that SOMFY wishes to perfect a security interest in such products pursuant to the Uniform Commercial Code, Buyer authorizes SOMFY to prepare, sign and record applicable documentation to evidence such perfection, including filing a financing statement on behalf of Buyer without Buyer's signature.

XII. DEFAULT

In the event of Buyer's default in payment for the products purchased hereunder upon the terms and conditions agreed upon with SOMFY, to the extent permissible under applicable law, Buyer shall be responsible for the reimbursement of all reasonable costs and expenses incurred by SOMFY in collecting any sums owed by Buyer, and SOMFY shall not be obligated to make any further deliveries of products to Buyer.

XIII. SUBSTITUTES

SOMFY may furnish substitutes for products not obtainable because of limitations or regulations established by governmental authorities or because of non-availability of materials from suppliers, provided such substitutes will not affect the technical soundness of the product or its performance.

XIV. PRODUCT DESCRIPTIONS

The illustrations and product descriptions on catalogues, brochures and leaflets are given as a general description of SOMFY's products and are not binding commitments or give rise to any warranties or legal liability on the part of SOMFY. Such information and photos may be modified by SOMFY at any time.

For Professionals: It is the professional's responsibility to inform its own customers about the conditions of installation (including configuration), conditions of use of the products and the safety measures to be taken, by adapting and completing the information provided by SOMFY, to the professional's products and its customers. SOMFY reserves the right at any time to modify its products as well as the related technical and commercial information and documentation.

XV. ERRORS

Typographical or clerical errors in quotations, orders or acknowledgments are subject to corrections by SOMFY in its sole discretion.

XVI. DIMENSIONS

The dimensions and measurements in SOMFY's printed documents are approximate at the date of publication and may be superseded thereafter. Buyer should consult and re-verify such information with SOMFY before utilizing such information.

XVII. PRIVACY

SOMFY's Privacy Policy located at <https://www.somfysystems.com/en-us/privacy-policy> governs the processing of all personal data collected from Buyer in connection with Buyer's purchase of products (whether directly from SOMFY, through the Site or from a SOMFY Representative). Please review it to understand what kinds of personal data may be collected, how it may be used, and whether and how Buyer may control SOMFY's use of Buyer's personal data. If Buyer is a California resident, Buyer may have additional rights; please consult the California Consumer Privacy Notice within the Privacy Policy.

XVIII. CONDITION OF PREMISES

Certain services, such as product installation services, may need to be performed on Buyer's premises. Buyer represents and warrants that Buyer's premises are free and clear of any hazardous or dangerous conditions. Buyer further agrees that neither SOMFY nor any of its employees or subcontractors undertaking the services will be liable for any damages that occur to the premises or any property therein except those damages that result from the gross negligence of the service provider.

XIX. WAIVER

The failure of SOMFY to seek redress for violation of, or to insist upon the strict performance of any covenant, term or condition of these Terms and Conditions of Sale shall not be deemed a waiver or otherwise release SOMFY from enforcing its rights without restriction as to past or future violations thereof. The receipt by SOMFY of any payment with knowledge of the breach of any covenant, term or condition shall not be deemed a waiver of such breach and no provision of such terms shall be deemed to have been waived by SOMFY unless such waiver shall be in writing signed by SOMFY.

XII. DISPUTES

These Terms and Conditions of Sale, and unless specifically excepted, any agreements into which said Terms and Conditions of Sale are incorporated, and any controversy or claims arising therefrom, or the negotiation of breach thereof, shall be governed and enforced in accordance with the law of the state of New Jersey without regard to conflict of laws. Buyer hereby agrees to the jurisdiction of any United States District Court and any State Circuit Court located in New Jersey to the exclusion of any other court that might otherwise have jurisdiction over an action arising out of a dispute over these Terms and Conditions of Sale, the agreements into which they are incorporated or SOMFY's products.

In the event of a dispute arising under these Terms and Conditions of Sale, the agreements into which they are incorporated or SOMFY's products, whether or not a lawsuit or other proceeding is ultimately filed, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs, including attorney's fees and costs incurred in litigating, determining, or quantifying the amount of attorney's fees and costs payable to the prevailing party. The costs to which the prevailing party is entitled shall include those costs that are taxable under any applicable statute, rule, or guideline, as well as non-taxable costs, including, but not limited to, costs of investigation, copying costs, electronic discovery costs, telephone charges, mailing and delivery charges, information technology support charges, consultant and expert witness fees, travel expenses, court reporter fees, and mediator fees, regardless of whether such costs are otherwise taxable.

XIII. WAIVER OF JURY TRIAL AND CLASS ACTION RIGHTS

EACH PARTY HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND A TRIAL BY JURY FOR ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THESE TERMS AND CONDITIONS OF SALE OR THE RELATIONSHIP OF THE PARTIES. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE, INCLUDING BUT NOT LIMITED TO THE CONSTITUTION OF THE UNITED STATES, THE CONST-TUTION OF ANY STATE, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATION. EACH PARTY HEREBY ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOL-UNTARILY WAIVING THE RIGHT TO DEMAND A TRIAL BY JURY.

EACH PARTY FURTHER AGREES THAT IN ANY DISPUTE, NEITHER PARTY WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS IN COURT OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

XIV. ANTI-CORRUPTION

Each party shall perform its obligations in compliance with all applicable laws and regulations, including anti-corruption and money laundering applicable laws, in particular the U.S. 1977 Foreign Corrupt Act (FCPA), the Organization for Economic Cooperation and Development's Convention of 1997 on Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention). Buyer agrees to comply with SOMFY's Ethics Charter and Code of Conduct available on <https://www.somfy.com/en-us/compliance/ethics-and-anti-corruption> and to implement fair practices and to act, prevent and fight against all forms of corruption and not to do anything actively or passively that will constitute an act of anti-corruption. In this frame, Buyer agrees to permit SOMFY to perform any audit and agree to respond in good faith to any related questionnaire. In case of any proven act of corruption or breach by Buyer of these obligations, SOMFY may suspend or terminate orders without notice or compensation and subject to any damages to which Buyer may be entitled as a result of such breach.

XV. ASSIGNMENT

Buyer will not assign any of Buyer's rights or delegate any of Buyer's obligations under these Terms without SOMFY's prior written consent. Any purported assignment or delegation in violation of this Section XXII is null and void. No assignment or delegation relieves Buyer of any of Buyer's obligations under these Terms.

XXII. NO THIRD-PARTY BENEFICIARIES

These Terms do not and are not intended to confer any rights or remedies upon any person other than Buyer.

XXVI. SEVERABILITY

If any provision of these Terms is invalid, illegal, illegal or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

XXVII. ENTIRE AGREEMENT

This document, in conjunction with these Terms, SOMFY's Website Terms and Conditions of Use (if products are purchased through SOMFY's Site), the Reseller Agreement (if applicable) and SOMFY's Privacy Policy (and, if applicable, the California Consumer Privacy Notice) will be deemed the final and integrated agreement between Buyer and SOMFY on the matters contained in these Terms.

SOMFY SYSTEMS Standard terms and Conditions of Sale apply to all prices. Prices and design modifications are subject to change without notice. All prices are shown in U.S. Dollars and with F.O.B. Dayton, New Jersey, F.O.B. Boynton Beach, Florida, and F.O.B. Irvine, California. The prices listed herein are for SOMFY components and do not include the cost of installation.