

**PART 1 OF THESE TERMS APPLY WHERE YOU ARE PURCHASING PRODUCTS IN THE COURSE OF A BUSINESS ("Business Customer").**

**PART 2 OF THESE TERMS APPLY WHERE YOU ARE PURCHASING PRODUCTS AS AN INDIVIDUAL CONSUMER FOR PERSONAL USE ("Consumer").**

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## Part 1 – Business Customers

### 1. ABOUT US AND THESE TERMS

(i) **What these terms cover.** These are the terms and conditions on which Somfy Ltd ("we" or "us") supplies Products to you (including those you order from our website: <https://www.somfy.co.uk/>). These terms and conditions apply to the supply of both Goods and Services except where specified to apply to one or the other.

(ii) **Why you should read these terms.** Please read these terms carefully before you submit your Order to us. These terms tell you who we are, how we will provide Products to you, how you and we may change or end the Contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms or if you have any questions about them, please contact us to discuss.

(iii) **The latest version of these terms is available on our website.** We may update our general terms from time to time (but the terms that apply to your order will be the version in force at the date you submit that order). The latest version of these terms will be available on our website at <https://www.somfypro.co.uk/terms-conditions>.

### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

(i) **Who we are.** Somfy Ltd. is a company registered in England and Wales (company no. 02429938; VAT no. 556869873). Our registered office is at Unit 7 Lancaster Way, Airport West, Yeadon, West Yorkshire, United Kingdom, LS19 7ZA.

(ii) **How to contact us.** You can contact us by telephoning our customer service team at 0113 3913030 or by writing to us by email at [sales.uk@somfy.com](mailto:sales.uk@somfy.com) or by post to our Registered Office.

(iii) **How we may contact you.** If we have to contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us in your Order.

(iv) **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

### 3. DEFINITIONS

In these terms and conditions the following words shall have the following meanings:

<b>"Change"</b>	means an amendment to: <ul style="list-style-type: none"><li>a. the scope, nature, volume or execution of the Products under this agreement; or</li><li>b. any other term or schedule of this agreement.</li></ul>
<b>"Change Control Notice"</b>	means the written record of any Change agreed or to be agreed between us pursuant to the Change Control Procedure.
<b>"Change Control Procedure"</b>	means the procedure for agreeing a Change, as set out in clause 13.
<b>"Contract"</b>	means an agreement between you and us for the supply of Goods and Services of which these general terms and conditions, any quotation provided by us (or written variation thereto), any specific terms and conditions agreed between us in writing (if applicable), and the Specification shall form part.
<b>"Force Majeure Event"</b>	means any circumstance not in a party's reasonable control including: <ul style="list-style-type: none"><li>a. acts of God, flood, drought, earthquake or other natural disaster;</li></ul>

- b. epidemic, pandemic, quarantines, or other viral outbreaks;
- c. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d. nuclear, chemical or biological contamination or sonic boom; ;
- e. any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition;
- f. collapse of buildings, fire, explosion or accident;
- g. any labour or trade dispute, strikes, industrial action or lockouts;
- h. non-performance by suppliers or subcontractors or the lack of raw materials; and
- i. interruption or failure of utility service.

**"Goods"**

means the goods (or any part of them) set out in the Order.

**"Insolvency Event"**

means, in respect of a party, where

- a. that party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ("IA 1986") as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- b. that party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or an arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;
- c. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- d. that party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;
- e. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the party (being a company, partnership or limited liability partnership);
- f. the holder of a qualifying floating charge over the assets of that party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- g. a person becomes entitled to appoint a receiver over all or any of the assets of the party or a receiver is appointed over all or any of the assets of the party or a creditor or encumbrancer of the party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- h. any event occurs, or proceeding is taken, with respect to the party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of

the events mentioned above.

<b>"Intellectual Property Rights"</b>	means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.
<b>"Order"</b>	means your order for the supply of Products (as set out in your order form or your written acceptance of our quotation, as the case may be).
<b>"Practical Completion"</b>	has the meaning set out in clause 10(i).
<b>"Products"</b>	means the Goods and Services.
<b>"Services"</b>	means the services supplied by Somfy to you under the terms of this Contract;
<b>"Specification"</b>	means the specification for our supply of Products, including any relevant plans, drawings, datasheets and configuration manuals, that is agreed in writing between you and us.
<b>"VAT"</b>	means value added tax or any equivalent tax chargeable in the UK or elsewhere.

#### 4. CONTRACT

- (i) **How we will accept your Order.** Our acceptance of any Order made by you (whether or not we have previously provided a quotation) will take place when we email you to accept the Order. At this point, a contract will come into existence between you and us.
- (ii) **These are the only terms that apply to your Contract.** All quotations are made and Orders are accepted subject to these terms. No other terms and conditions apply to your Contract with us, unless we agree any specific or additional terms with you in writing.
- (iii) **If we cannot accept your Order.** If we are unable to accept your Order, we will inform you of this and will not charge you for the Product.
- (iv) **Your Order number.** We will assign an Order number to your Order and tell you what it is when we accept your Order. It will help us if you can tell us the Order number whenever you contact us about your Order.

#### 5. OUR PRODUCTS

- (i) **Products may vary slightly from their pictures.** The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images.
- (ii) **Product packaging may vary.** The packaging of the product may vary from that shown in images on our website.
- (iii) **Accuracy of information**

You are responsible for ensuring that your measurements (and any other information you provide to us) are accurate and in accordance with your requirements. If we are making the Product to measurements or a Specification that you have given us, you are responsible for ensuring that these measurements and/or Specifications are correct.

- (iv) **Suitability of premises and equipment.** We are not responsible for ensuring that any premises or other equipment to which you provide us access (including interfacing or support that is required for the operation of the Products other than where we have agreed to supply this) are suitable for the Products you have ordered. You shall indemnify Somfy against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Somfy arising out of or in connection with the suitability of such premises and/or other equipment for the Products (and vice versa).

- (v) **Quality of Goods.** Somfy warrants that on delivery the Goods shall:

- a. comply with the Specification (where we have agreed one) in all material respects;
- b. be free from material defects in design, material and workmanship; and
- c. be fit for the purpose(s) that we hold out (but, for the avoidance of doubt, Somfy will have no liability in respect of the suitability of the Goods for any other purposes – you are responsible for identifying your own particular requirements).

(vi) **Quality of Services.** Somfy warrants that the Services shall:

- a. comply with the Specification (where we have agreed one) in all material respects;
- b. be performed using reasonable care and skill.

## 6. PRICES

(i) **VAT.** Unless otherwise stated, all prices are exclusive of amounts in respect of VAT. You must, on receipt of a valid VAT invoice from us, pay to us any additional amounts in respect of VAT as are chargeable on a supply of Products.

(ii) **For Orders completed via our website:**

- a. **The price is shown on our website.** Where you complete your Order on our website, the price of the Products will be the price indicated on the order pages when you placed your Order. We take all reasonable care to ensure that the price of the Product advised to you is correct. However please see sub-clause b for what happens if we discover an error in the price of the Product you order.
- b. **What happens if we got the price wrong.** It is always possible that, despite our best efforts, some of the Products we sell may be incorrectly priced. We will normally check prices before accepting your Order so that, where the Product's correct price at your Order date is less than our stated price at your Order date, we will charge the lower amount. If the Product's correct price at your Order date is higher than the price stated to you, we will contact you for your instructions before we accept your Order. If we accept and process your Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the Contract, refund you any sums you have paid and require the return of any Goods provided to you.

(iii) **Where we provide you with a quote:**

- a. **For Goods.** The cost of the Goods will be as shown on our quote. Prices quoted do not include delivery costs unless we state otherwise.
- b. **For Services.**
  - 1. The cost of the Services will be calculated on a project-by-project basis, and we will provide you with a quote for these costs.
  - 2. We will be entitled to charge you for any expenses reasonably incurred by the individuals whom we engage in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by us for the performance of the Services, and for the cost of any materials.
- c. We reserve the right to increase the price by giving notice to you at any time prior to the delivery of the Goods and/or Practical Completion (as the case may be), to take account of any increase in the cost of the Products to us that is due to:
  - 1. any factor beyond our control (including any increases in costs of raw materials, labour or other manufacturing costs, increases in taxes or duties, and currency fluctuations);
  - 2. your request to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
  - 3. any delay caused by any of your instructions in respect of the Products or failure by you to give us adequate or accurate information or instructions in respect of the Products.

## 7. TERMS OF PAYMENT

(i) **When you must pay.**

- a. Where you complete an Order through our website, you will be asked to pay during the order process.
- b. Where we provide you with an invoice:
  1. where you have bought Goods, we will send the invoice on the day we despatch the Goods you have ordered (or a part of those Goods);
  2. where you have bought Services, we will invoice you at regular intervals (we will let you know in writing how often this will be); and
  3. you must pay each invoice submitted by us:
    - i. within 30 days of the date of the invoice (unless we have agreed otherwise in writing); and
    - ii. in full and cleared funds to a bank account nominated by us, and

time for payment shall be of the essence of the contract.

Somfy reserves the right to make your Order conditional on advance payment (in full or in part) and will inform you of any such conditions prior to accepting your Order.

(ii) **How you may pay.** We accept payment by direct transfer such as BACS or CHAPS or by cheques made payable to Somfy Limited.

(iii) **Late payment.**

- a. If you do not make any payment to us by the due date then, without limitation to any other remedy we may have under these terms, we reserve the right to charge interest to you at 2% per month over Barclays Bank PLC base rate (applying at the time) on all overdue amounts, whether before or after judgment. This interest will accrue on a daily basis from the date that payment becomes due until the date of actual payment of the overdue amount.
- b. If you do not make any payment to us by the due date, all other sums of money payable by you to us under all other contracts (whether or not then due for payment) shall immediately become due for payment.
- c. Where your payment of our invoice or any other sum due to us is outstanding for more than 60 days, you will also be liable to pay all legal costs and disbursements that we incur from the due date in connection with recovering such overdue amounts (or any part thereof). At our election, these costs will either be added to your running account balance or will be payable by you to us within 30 days of notification by us.

(iv) **What to do if you think an invoice is wrong.** If you think an invoice is wrong, please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

(v) We reserve the right at any time at our discretion to demand security for payment before continuing with or delivering any Order.

(vi) Somfy reserves the right to revise the payment terms or credit arrangements previously agreed with you with immediate effect by notice in writing if you are subject to any of the events listed at clause 17(ii)a, b, or c.

(vii) You may not withhold payment of any invoice or other amount due to us by reason of any set-off, counterclaim, deduction or withholding which you may have or allege to have or for any other reason (other than any deduction or withholding of tax as required by law).

## 8. DELIVERY

(i) **Delivery costs.** The costs of delivery will be as displayed to you on our website and/or our quote.

(ii) **Delivery note.** Each delivery will be accompanied by a delivery note showing your Order reference number, and information on the type and quantity of the Goods you have ordered (and, if the Order is being delivered in instalments, the outstanding balance of the Goods awaiting delivery) ("**Delivery Note**").

(iii) **Instalments.** We may deliver Goods by instalments, which may be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

(iv) **When we will provide the Products.** During the Order process, we will provide you with an estimated date of delivery or completion. Unless stated otherwise in writing, this date is approximate only and time is not of the essence for

delivery of the Goods, performance of Services and/or Practical Completion (as the case may be). We will use all reasonable endeavours to deliver the Goods and/or perform any Services by the date or dates agreed between us, but delays in the delivery shall not entitle you to refuse to take delivery of Goods, claim any refund or damages in respect of the Products or terminate the Contract (subject to clause 19).

(v) **Completion of delivery.** Completion of delivery will take place upon the Goods being unloaded at the delivery address that you have notified to us.

(vi) **If you delay delivery.** If you postpone delivery, fail to take delivery or fail to provide timely and adequate delivery instructions, then:

- a. we will contact you for further instructions;
- a. we may have to arrange storage of the Goods and we will charge you for the reasonable costs of any storage, insurance of the Goods during the storage period, and/or further delivery costs;
- b. Somfy will have no liability for any losses or costs that you incur as a result of the delay; and
- c. if, ten business days after the day on which we contact you for further instructions, you have not contacted us to re-arrange delivery, we may resell or otherwise dispose of part or all of the Goods.

(vii) **Delay due to Force Majeure Event.** Somfy will have no liability for any failure or delay in despatch, delivery or completion of an Order for Products to the extent that such failure or delay is caused by a Force Majeure Event.

## 9. ACCEPTANCE AND DEFECTS

(i) At our election, we will repair, replace or refund you in full for Goods that do not comply with the warranty set out at clause 5(v), as appropriate (including Goods which are damaged in transit or not delivered in accordance with the applicable Delivery Note) provided that:

- a. you provide us with a notice of rejection:
  1. in the case of a defect that is apparent on normal visual inspection, within 5 business days of delivery;  
or
  2. in the case of a latent defect, within a reasonable time of the latent defect becoming apparent;
- b. we are given a reasonable period of examining the Goods, where applicable;
- c. on our request, you return the Goods to our place of business at your cost, where applicable; and
- d. none of the events listed in clause 9(iii) apply.

(ii) Where you do not provide a notice of rejection in accordance with the timescales in clause 9(i)a, you will be deemed to have accepted the Goods and Somfy will have no liability for any loss or damage arising from such defect.

(iii) Somfy will not be liable for failure of any Goods to comply with the warranty set out in clause 5(v) in any of the following events:

- a. you make any further use of the Goods after giving notice in accordance with clause 9(i)a;
- b. the defect arises because you failed to follow our oral or written instructions for the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- c. the defect arises as a result of us following any drawing, design or specification supplied by you;
- d. you alter or repair the Goods without our written consent;
- e. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- f. the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

(iv) In addition to any other rights you may have under these terms, where we have supplied you with Goods which are defective within the relevant Period listed in sub-clause (v) below, and those defects have arisen:

- a. after the Goods have solely been used properly and in accordance with any instructions that we have provided you with respect to their use;
- b. solely as a result of faulty design (other than a design made, furnished or specified by you and/or detailed in the Specification), materials or workmanship,

then we will, at our election, repair or replace those Goods, provided that you return the defective Goods to us upon our request.

(v) The "**Periods**" referred to in sub-clause (iv) above are as follows:

1. in the case of Somfy-branded Products (motors, accessories, control points, automation, control and connected solutions) for rolling shutters, swinging shutters (excluding batteries), external/interior blinds (excluding batteries), pergola, curtains, security (alarm systems and cameras), garage doors and Invisio integrated gate motorisation, 5 years from the date of manufacture;
2. in the case of Somfy Products for rolling shutters for the S&SO RS 100 and Oximo WireFree RTS solar solution (motor, panel and battery installed exclusively together), 7 years from the date of manufacture with the exception of the battery for Somfy WireFree motor for interior blinds and curtains, for which the Period is 2 years from the date of manufacture;
3. in the case of Somfy-branded motors (excluding Invisio integrated motorisation for gate), control box , kits for gates and batteries for swinging shutter motors, 3 years from the date of manufacture.

(vi) Where we have provided you with Services, we will attend the premises at which the Services were provided to remedy any defects that are solely and directly connected with our provision of the Services, provided that you notify us of such defects within 1 year after Practical Completion (or, if not applicable, 1 year after the date we finish providing the Services). However, we are not responsible for the cost of repairing any pre-existing faults or damage to the premises that we discover while providing the Services.

(vii) Other than where the circumstances in clause 9(i) to (vi) apply, you will only be entitled to return Goods with our consent. You must request such consent within 30 days of the date of despatch of the Goods. Somfy is under no obligation to grant its consent (and where we do not provide consent, you will not be entitled to return the Goods). Where we do provide consent:

- a. you must return the Goods to our place of business;
- b. the Goods must arrive at our place of business undamaged, unused, in their original packaging and in saleable quality;
- c. we reserve the right to charge you 15 per cent of the price of the Goods that have been returned by way of an administration fee

(viii) These terms shall apply to any repaired or replacement Goods supplied by us.

(ix) In no event will Somfy be liable for any costs of:

- a. dismantling or reinstalling Goods; or
- b. maintenance of Products.

## 10. HOW WE WILL PROVIDE PRODUCTS

(i) **We may carry out Tests.** We will, in some instances, submit the Products to our testing procedures ("**Tests**") to ensure that the Products are in working order and that they operate in accordance with the Specification (where applicable). Where the outcome of the Tests is that the Products are in good order and operate in accordance with the Specification, we will issue a commissioning statement to you that confirms that "**Practical Completion**" has occurred.

(ii) **You can choose to attend Tests.** Where we carry out Tests, you (or your representative) may attend the Tests. We will give you reasonable notice of the date on which the Tests will take place (and the Tests will take place on that date whether or not you or your representative is present). If you or your representative is present, we will issue a witness statement for you or your representative to sign to indicate your acceptance of Practical Completion. If you or your representative fails to attend, you will be deemed to have accepted Practical Completion.

(iii) **Health and safety.** You must inform us of any rules and requirements that are in place at the premises where we are due to perform Services (such as health and safety or security procedures) within a reasonable period before the planned start date of the Services. We will use all reasonable endeavours to comply with those rules and requirements. However:

- a. Somfy shall have no liability for any breach or non-performance of any of its obligations under this Contract which results as a result of or in connection with its observation with such rules and requirements; and
  - b. for the avoidance of doubt, if you fail to inform us of those rules and requirements within a reasonable period before the planned start date of the Services, we will be entitled to treat this as a Customer Default.
- (iv) **Reasons we may suspend the supply of Products to you.** We may have to suspend the supply of a Product to:
- a. deal with technical problems or make minor technical changes;
  - b. update the Product to reflect changes in relevant laws and regulatory requirements;
  - c. make changes to the Product following agreement of a Change (see clause 13).

We will contact you in advance to tell you we will be suspending supply of the Product, unless the problem is urgent or an emergency.

- (v) **Customer Default.** If Somfy's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of you or failure by you to perform any relevant obligation ("**Customer Default**") then:
- a. without limiting or affecting any other right or remedy available to it, Somfy shall have the right to suspend performance of the Services until you remedy the Customer Default and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent that the Customer Default prevents or delays Somfy's performance of any of its obligations;
  - b. Somfy shall not be liable for any costs or losses sustained or incurred by you arising from Somfy's failure or delay to perform any of its obligations as set out in this clause 10(v);
  - c. you shall reimburse Somfy on written demand for any costs or losses sustained or incurred by Somfy (including any increase in the price of Services) arising directly or indirectly from the Customer Default.

## 11. RISK AND TITLE TO GOODS

- (i) Risk in the Goods shall pass to you on completion of delivery.
- (ii) Title to the Goods shall not pass to you until the earlier of:
- a. when we have received payment in full (in cash or cleared funds) for the Goods and any sums in respect of which payment has become due from you to us, in which case title to the Goods shall pass at the time of payment of all such sums; and
  - b. you resell the goods, in which case title to the goods will pass to you at the time specified in clause 11(iv).
- (iii) Until title to the Goods has passed to you, you must:
- a. store the Goods separately from any other goods you hold so that they can be easily identified as being our property;
  - b. not remove, deface or obscure any identifying mark or packaging on or relating to those Goods;
  - c. keep the Goods in satisfactory condition;
  - d. insure the Goods for their full price against all risks with an insurance company that is reasonably acceptable to us and, whenever requested by us, produce a copy of the policy of insurance;
  - e. not encumber the Goods or purport to transfer title to them for security purposes;
  - f. notify us immediately if someone else attempts to seize or exercise any lien over the Goods, in which case you shall bear the cost of any action resulting from such attempt seizure or lien;
  - g. notify us immediately if you are subject to any of the events listed at clause 17(ii)a to c.
- (iv) Subject to sub-clause (vi) below, you may resell or use the Goods in the ordinary course of your business (but not otherwise) before we receive payment for the Goods. However, if you resell the Goods before that time:
- a. you do so as principal and not as our agent; and

- b. title to those products will pass from us to you immediately before the time at which the resale by you occurs.
- (v) For the avoidance of doubt, any resale of Products will be subject to applicable provisions of clauses 20 and 21(v).
- (vi) At any time before title to the Goods passes to you, we may:
  - a. by notice in writing, terminate your right under sub-Clause (iv) above to resell the Goods or use them in the ordinary course of your business; and
  - b. require you to deliver up all the Goods in your possession that have not been resold or irrevocably incorporated into another product. If you fail to do so promptly, we may enter any premises owned by you or of any third party where the Goods are stored in order to recover them.

## 12. YOUR OBLIGATIONS

- (i) **Co-operation.** You must co-operate with us in relation to our provision of the Products – for example, you must provide us (and our employees, agents, consultants and subcontractors) with uninterrupted access to any premises and other facilities as we reasonably require in order to provide the Products.
- (ii) **Providing information.** You must promptly provide us with the information and materials that we reasonably request in order to supply the Product. You must ensure that the information you provide to us (such as a Specification, drawings, designs, descriptions and other information) – whether you provide it in writing or verbally – is complete and accurate in all material respects and is in accordance with your requirements.
- (iii) **Premises and equipment.** You must prepare your premises (or other relevant premises) and any relevant equipment (which could including hardware or software interfaces, amongst other things) for the supply of the Products.
- (iv) **Licences and consents.** You must obtain and maintain all necessary licences, permissions and consents which may be required for the use of the Products by or on your behalf before the date on which we are due to supply the Products.
- (v) **Keep our property safe.** You must keep all materials, equipment, documents or other property of Somfy ("**Supplier Materials**") at your premises (or at the premises where the Products are provided or another storage area that you have directed us to use) in safe custody and at your own risk, and maintain such Supplier Materials in good condition until they are returned to us. You must not dispose of or otherwise use such Supplier Materials unless we instruct or authorise you to do so in writing.
- (vi) **Timescales.** If we have agreed a timescale or deadline for you to do certain things, you must meet those timescales.

## 13. VARIATION AND CHANGE CONTROL

- (i) Notwithstanding Somfy's rights under clause 6c and sub-clause (v) below, either you or we can submit a written request for a Change by submitting two signed copies of a Change Control Notice to the other party. The Change Control Notice must include full details of the Change, including without limitation the reason for the Change, any Specifications, the timetable, the proposed price (in the case of submission by Somfy), the impact of the Change and the date of expiry of the Change Control Note (which shall be 2 weeks after the Change Control Notice will be deemed to be received).
- (ii) The party in receipt of the Change Control Notice shall respond to the submitting party on or before the date of expiry to:
  - a. request further information where reasonably required; or
  - b. approve or reject the Change (subject to agreement of pricing where the Change Control Notice has been submitted by you).
- (iii) Where the receiving party approves the Change, it will sign the Change Control Notice and such signed Change Control Notice shall constitute an amendment to this Contract.
- (iv) Where the receiving party rejects the Change, the party that submits the Change Control Notice may require a duly authorised representative of the other party to meet with its own such representative within 20 business days. At this meeting, the parties will negotiate in good faith in an attempt to agree upon the Change.
- (v) We reserve the right to make changes to the Products (and/or the Specification on which the Products are based) where:
  - a. this necessary to reflect changes in relevant laws or regulations (e.g. safety requirements); or

- b. such changes will not materially affect the nature or quality of the Products in a significant way and will not affect your use of the Product.

#### **14. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU**

- (i) Nothing in this Contract limits our liability where it is unlawful to do so. This includes liability for death or personal injury caused by our negligence or our fraud.
- (ii) Our total liability to you arising under or in connection with this Contract or any breach or non-performance of it no matter how fundamental (including by reason of our negligence) in contract, tort or otherwise shall not in any event exceed the price of the Products under this Contract.
- (iii) Somfy shall be under no liability to you for any (i) loss of profit, loss of revenue, loss or corruption of data, loss of goodwill, reputation or opportunity (whether direct or indirect); (ii) consequential or indirect loss and/or expense arising out of or in connection with this Contract or any breach or non-performance of it no matter how fundamental (including by reason of our negligence).
- (iv) We have given commitments as to the compliance of the Products with relevant specifications in clause 5(v) and (vi). In view of those commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract. In particular, provided that the Products supplied are in accordance with the Specification and are fit for the purposes which Somfy holds out, Somfy shall not be responsible for the suitability of the Products for your purposes.
- (v) This clause 14 shall survive termination of the contract.

#### **15. INTELLECTUAL PROPERTY**

- (i) All Intellectual Property Rights in or arising out of or in connection with the supply of Products (other than Intellectual Property Rights in any materials provided by you) shall be owned by us.
- (ii) Somfy grants to you (or shall procure a direct grant to you of) a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this contract to use, copy and/or modify such Intellectual Property Rights that form part of the Goods or Specification (other than any materials provided by you) so far as this is necessary for your receipt and use the Products for the purposes for which they have been provided. You may not sub-licence, assign or otherwise transfer the rights granted by this sub-clause.
- (iii) Somfy grants to you a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this contract to use Somfy's name, brand and trade marks and any images and/or descriptions of Products that Somfy may provide or otherwise make available to you solely for the purposes set out in, and in accordance with the restrictions set out in, Somfy's graphic charter as notified to you from time to time.
- (iv) You grant to us a fully paid-up, non-exclusive, royalty-free non-transferable licence to use, copy and modify any materials provided by you to us for the term of this contract for the purpose of providing the Products to you.
- (v) You shall indemnify us against all liabilities, costs, expenses, damages, and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with any claim made against us for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with:
  - a. your use of Products in combination with software not supplied or approved in writing by us (whether in the Specification or otherwise); or
  - b. our use of a Specification or any other material that has been supplied by you.

#### **16. CONFIDENTIAL INFORMATION**

- (i) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other except as permitted by clause 16(ii).
- (ii) Each party may disclose the other party's confidential information:
  - a. to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 16; and

b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(iii) Neither of us shall use any of the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.

## 17. TERMINATION

(i) Without affecting any other right or remedy available to it, Somfy may terminate the Contract by giving you not less than two months' written notice.

(ii) Without affecting any other right or remedy available to it, either of us may terminate the Contract with immediate effect by giving written notice to the other party in the event of any of the following:

- a. the other party is subject to an Insolvency Event; or
- b. the other party suspends, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- c. the other party's financial position deteriorates so far as to reasonably the opinion that its ability to give effect to the terms of this Contract is in jeopardy.

(iii) Without affecting any other right or remedy available to it, Somfy may terminate this Contract with immediate effect by giving written notice to you if you fail to pay any amount due under this Contract within 7 days after receipt of a written reminder from Somfy that such payment is due.

## 18. CONSEQUENCES OF TERMINATION

(i) On termination of the Contract:

- a. you must immediately pay to Somfy all of Somfy's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, Somfy shall submit an invoice, which shall be payable by you immediately on receipt;
- b. you must return all of the Supplier Materials and Goods which have not been fully paid for. If you fail to do so, then Somfy may enter your premises and take possession of them. Until they have been returned, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

(ii) Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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.

(iii) Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

## 19. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for three months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

## 20. RESALE OF PRODUCTS

### *TERMS SPECIFIC TO "PRO PRODUCTS"*

(i) Somfy may make available for sale the following eight categories of Products: (1) connected solutions, (2) controls and automation, (3) security systems, (4) motors for sliding and swinging shutters, (5) motors for roller shutters, (6) solutions for external blinds, (7) motors for internal blinds and (8) solutions for home access. Several of these Product categories are intended exclusively for installation or integration into an end product by professionals in the field of home automation and motorization and, due to their technical nature, require specific and/or specialised knowledge to ensure that they meet the needs and constraints of the end user ("**Pro Products**").

(ii) If you submit an Order for, or request a quotation relating to, a Pro Product, Somfy will:

- a. prior to accepting your Order, inform you that the Pro Product requires such installation and/or integration by an appropriately skilled professional (and reserves the right to refuse an Order for a Pro Product submitted by anyone other than such a professional); and

- b. provide comprehensive instructions about how Pro Products must be installed and/or assembled and information on the safety risks if these instructions are not followed (**Pro Product Instructions**).
- (iii) You may only make an onward sale of a Pro Product (or any product integrating a Pro Product) where:
- a. you have properly and safely integrated the Pro Product into a product that is suitable for use by end users ("**Integrated Pro Product**"); or
  - b. where sub-clause a above does not apply:
    - 1. you provide to your customer the information set out at clause 0(i)a and 0(i)b; and
    - 2. in the event of a sale to an end user, you also provide installation and/or assembly services for the Pro Product to the end user in accordance with the Pro Product Instructions; or
    - 3. in the event of a sale to non-end users, you are satisfied that your onward customer provides one of the following services:
      - i. a distribution activity aimed at appropriately-skilled professionals that will provide the required installation or assembly services for the Pro Product to end users to whom they sell the Pro Product;
      - ii. installation or assembly services in accordance with the Pro Product Instructions in each case they resell the Pro Product to an end user; or
      - iii. manufacture and supply of an Integrated Pro Product.
- (iv) Where you resell the Pro Product in breach of any part of clause 0(iii), then:
- a. Somfy will not be liable for any claim of loss or damage suffered or allegedly suffered by any third party as a result of your or your customer's failure to provide adequate or comprehensive information regarding the assembly and/or installation of the Pro Product (including the Pro Product Instructions);
  - b. Somfy reserves the right to:
    - 1. refuse any new Orders from you;
    - 2. suspend any existing Orders that you may have submitted; and/or
    - 3. terminate the Contract and any other contract in place between you and Somfy.

#### *GENERAL RESALE TERMS*

- (v) Where you market and/or make Products available for sale to onward customers, you undertake:
- a. in the case of a sale of Pro Products other than an Integrated Pro Product:
    - 1. to only market and/or make such Pro Products available for sale in a space dedicated to professionals; and
    - 2. to specify on this dedicated space that these Pro Products must be installed by appropriately-skilled professionals and that the installation instructions accompanying the Pro Products (including the Pro Product Instructions) are intended for such professionals, and that any failure to engage the services of such professional to install and/or assemble the Pro Product is done at the customer's own risk; and
    - 3. to provide a full and complete copy of the Pro Product Instructions; and
    - 4. to contractually oblige your onward customers to adhere with the restrictions set out in this sub-clause a;
  - b. not to make any misleading or inaccurate statement or representation about the nature, quality or characteristics of Products; and
  - c. not to make any statement or other representation that is harmful or otherwise derogatory to Somfy's brand.

## **21. GENERAL**

- (i) **Assignment and dealings.** Somfy shall be entitled to assign, mortgage, charge, delegate, declare a trust over, subcontract or deal in any other manner with any and all of its rights and obligations under the Contract. You shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of your rights and

obligations under the Contract without our prior written consent.

(ii) **Waiver.** No failure or delay by a party (whether express or implied) to enforce any of its rights or remedies provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

(iii) **Variation.** Except as set out in these terms (in particular clause 7(vi) and clause 13), no variation of the Contract shall be effective unless it is agreed in writing and signed on behalf of both parties.

(iv) **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

(v) **Compliance**

- a. Where you resell (or provide or otherwise make available) Products to third parties ("**Resale**"), you do so independently of Somfy and all activities in connection with such Resale are carried out at your sole liability. In particular, you will be solely responsible for:
  1. ensuring that any Resale shall not in any way constitute a violation of the laws or regulations in force in any country into which Products are imported during the course of such Resale;
  2. complying with any applicable laws and regulations in relation to the sale, marketing, distribution and packaging of Products in the course of a Resale.
- b. Where you Resell Products of any type (including, for the avoidance of doubt, hardware, software and/ or other technology, as well as any corresponding documentation relating to such Products):
  1. you shall comply with all applicable national and international (re-) export control regulations;
  2. in any event, you shall comply with the (re-) export control regulations of the European Union and of the United States of America; and
  3. prior to carrying out a Resale, you must take all reasonable steps to ensure that:
    - i. such Resale (and any activities carried out in connection with such Resale) will not comprise an infringement of an embargo or other trade restriction imposed by the European Union, by the United States of America and/ or by the United Nations, in each case taking into account applicable sanctioned party lists concerning the trading with entities, persons and organizations listed; and
    - ii. the third party receiving the Resale does not intend to use the Products to manufacture or otherwise in connection with armaments, nuclear technology or weapons, if and to the extent such use is prohibited by or requires authorisation under any applicable laws (unless such authorisation is provided by or on behalf of that third party).
- c. Under no circumstances will Somfy be liable for any failure or violation of any applicable laws and regulations in any country arising as a result of, or in connection with, the Resale of Products (including in relation to the importation, distribution and / or marketing of Products). You shall indemnify Somfy and its affiliates against all claims, convictions, penalties, losses and expenses resulting directly or indirectly from or in connection with the Resale of Products.

(vi) **Notices.**

- a. Any notice given to a party under or in connection with the Contract shall be in writing and served by first class post or by hand at its registered office or its principal place of business.
- b. Any notice shall be deemed to have been received:
  1. if delivered by first class post, at 9.00am on the second business day after posting; or
  2. if delivered by hand, at the time the notice is left at the proper address.
- c. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

(vii) **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall

be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this Clause 21(vii) the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

(viii) **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

(ix) **Entire agreement.** The Contract constitutes the entire agreement between us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter. Each of us acknowledges that in entering into the Contract we do not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each of us agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

(x) **Governing law.** The Contract and any dispute or claim (including non-contractual disputes and claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each of us irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

## Part 2 – Consumers

### 1. ABOUT US AND THESE TERMS

(i) **What these terms cover.** These are the terms and conditions on which we supply products to you (including those you order from our website: <https://www.somfy.co.uk/>). These terms and conditions apply to the supply of both goods and services except where specified to apply to one or the other.

(ii) **We only accept orders from over-18s.** In order to place an order with us, and enter a contract for the supply products to you, you must be 18 years of age or older.

(iii) **Why you should read these terms.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms or if you have any questions about them, please contact us to discuss.

(iv) **The latest version of these terms is available on our website.** We may update our general terms from time to time (but the terms that apply to your order will be the version in force at the date you submit that order). The latest version of these terms will be available on our website at <https://www.somfy.co.uk/terms-and-conditions>.

### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

(i) **Who we are.** We are Somfy Ltd., a company registered in England and Wales (company no. 02429938; VAT no. 556869873). Our registered office is at Unit 7 Lancaster Way, Airport West, Yeadon, West Yorkshire, United Kingdom, LS19 7ZA.

(ii) **How to contact us.** You can contact us by telephoning our customer service team at 0113 3913030 or by writing to us by email at [sales.uk@somfy.com](mailto:sales.uk@somfy.com) or by post to our registered office (which is set out under clause 2(i) above).

(iii) **How we may contact you.** If we have to contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

(iv) **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

### 3. CONTRACT

(i) **How we will accept your order.** Our acceptance of any order made by you (whether or not we have previously provided a quotation) will take place when we email you to accept the order. At this point, a contract will come into existence between you and us.

(ii) **These are the only terms that apply to your contract.** All quotations are made and orders are accepted subject to these terms. No other terms and conditions apply to your contract with us. You should not rely on any statement, representation, warranty or assurance made or given by us (on our behalf) that is not set out in the contract (however, this does not limit our liability for fraudulent misrepresentation).

(iii) **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified. Somfy reserves the right to refuse your order for any reason, including where the quantities of products that you order are abnormally high compared to quantities usually ordered by buyers for their personal and domestic needs.

(iv) **Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.

### 4. OUR PRODUCTS

(i) **Products may vary slightly from their pictures.** The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images.

(ii) **Product packaging may vary.** The packaging of the product may vary from that shown in images on our website.

(iii) **Accuracy of information.** You are responsible for ensuring that your measurements (and any other information you provide to us) are accurate and in accordance with your requirements. If we are making the product to measurements or other specifications you have given us, you are responsible for ensuring that these measurements and/or specifications are

correct. You can find information and tips on how to take measurements by contacting us.

(iv) **Suitability of the premises and equipment.** We are not responsible for ensuring that any premises or equipment to which you provide us access (including interfacing or support that is required for the operation of the products other than where we have agreed to supply this), are suitable for the products you have ordered. We disclaim any liability in this respect, to the fullest extent permitted by law.

(v) **Quality of Goods.** Somfy warrants that on delivery the Goods shall:

- a. comply with the specification (where we have agreed one) in all material respects;
- b. be free from material defects in design, material and workmanship; and
- c. be fit for the purpose(s) that we hold out (but we will not be responsible for the suitability of the products for any other purposes – you are responsible for identifying your own particular requirements).

(vi) **Quality of Services.** Somfy warrants that the Services shall:

- a. comply with the specification (where we have agreed one) in all material respects;
- b. be performed using reasonable care and skill.

(vii) **Packaging.** We will ensure that the products are properly packed and secured in a manner to enable them to reach their destination in good condition.

## 5. PRICES

(i) **For orders completed via our website:**

- a. **The price is shown on our website.** Where you buy a product from our website, the price of the product (which includes VAT) will be the price indicated on the order pages when you placed your order. We take all reasonable care to ensure that the price of the product advised to you is correct.. However please see sub-clause c for what happens if we discover an error in the price of the product you order.
- b. **We will pass on changes in the rate of VAT.** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
- c. **What happens if we got the price wrong.** It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any goods provided to you.

(ii) **Where we provide you with a quote:**

- a. **For Goods.** The cost of the goods will be as shown on our quote. Prices quoted do not include delivery costs unless we state otherwise.
- b. **For Services.** The cost of any services will be calculated on a project-by-project basis, and we will provide you with a quote for these costs.
- c. **Prices may increase in line with RPI.** The prices that we quote will be based on the costs of materials and labour at the date of the quotation. However, we may have to increase the price to reflect increases to the Retail Price Index. Where this is the case, we will let you know as soon as possible that the increase will take place and the amount of the cost increase.

## 6. PAYMENT

(i) **When you must pay.**

- a. **Where you complete an order through our website,** you will be asked to pay during the order process.
- b. **Where we provide you with an invoice.** If you purchase products after we have provided a quote, we will send

you an invoice. Where you have bought goods, we will send the invoice on the day we despatch the goods you have ordered (or a part of those goods). Where you have bought services, we will invoice you at regular intervals (we will let you know in writing how often this will be). You must pay our invoices within 30 days of the date of the invoice unless we have agreed otherwise in writing.

- (ii) **How you may pay.** We accept payment by debit or credit card (Mastercard or Visa) or PayPal.
- (iii) **If you pay late, we can charge interest.** If you do not make any payment to us by the due date, we reserve the right to charge interest to you at 2% per month over Barclays Bank PLC base rate (applying at the time) on all overdue amounts. This interest will accrue on a daily basis from the date that payment becomes due until the date of actual payment of the overdue amount.
- (iv) **What to do if you think an invoice is wrong.** If you think an invoice is wrong, please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

## 7. DELIVERY

- (i) **Delivery costs.** The costs of delivery will be as displayed to you on our website and/or our quote.
- (ii) **Delivery note.** Each delivery will be accompanied by a delivery note showing your order reference number, and information on type and quantity of the products you have ordered (and, if the order is being delivered in instalments, the outstanding balance of the products awaiting delivery).
- (iii) **When we will provide the products.**
  - a. Where the products are goods, we will provide you with an estimated date of delivery during the order process, which will be within 7 days after the day on which we accept your order.
  - b. Where the products are services, we will begin the services on the date agreed with you during the order process. The estimated date of completion of the services will also be told to you during the order process.
- (iv) **We are not responsible for delays outside our control.** If our supply of the products you have ordered is delayed by an event beyond our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this, we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may be entitled to end the contract (see clause 11 for more details).
- (v) **If you delay delivery.** If you postpone delivery, fail to take delivery or fail to provide timely and adequate delivery instructions, then:
  - a. we will contact you for further instructions;
  - b. we may have to arrange storage of the goods and we may charge you for the reasonable costs of any storage, insurance of the goods during the storage period, and/or further delivery costs;
  - c. Somfy will have no liability for any losses or costs that you incur as a result of the delay; and
  - d. if 10 business days after the day on which we contact you for further instructions, you have not contacted us to re-arrange delivery, we may resell or otherwise dispose of part or all of the goods.

## 8. HOW WE WILL PROVIDE PRODUCTS

- (i) **We may carry out Tests.** We will, in some instances, submit the products to our testing procedures (“**Tests**”) to ensure that the products are in working order and that they operate in accordance with the specification (where there is one). Where the outcome of the Tests is that the products are in good order and operate in accordance with the specification, we will issue a commissioning statement to you that confirms that “**Practical Completion**” has occurred.
- (ii) **It is important that you attend Tests.** Where we carry out Tests, you may attend the Tests. We will contact you to arrange a mutually-convenient date and time at which the Tests will take place so that you can choose to attend the Tests. You can contact us if you need to reschedule the Tests. On completion of the Tests, we will issue a witness statement for you to sign. If you sign this witness statement, you will have accepted Practical Completion (i.e., that the products are in good order and operate in accordance with the specification) and we will make it clear on the witness statement that this is what you are agreeing to. However, if you do not attend the Tests at the date and time we have agreed, we will carry out the Tests in your absence and you will be deemed to have accepted Practical Completion.
- (iii) **Health and safety.** You must inform us of any rules and requirements that are in place at the premises where we are due to perform services (such as health and safety or security procedures) within a reasonable period before the planned

start date of the services. We will use all reasonable endeavours to comply with those rules and requirements. However:

- a. where those rules and requirements will mean that we need to make a significant change to the products you have ordered, then we will follow the procedure under clause 10(iii);
- b. where your failure to inform us of those rules and requirements within a reasonable period before the planned start date of the services means that we incur additional costs, we may require you to reimburse us for those costs.

(iv) **If you do not allow us access to provide services.** If you do not allow us access to your property (or another relevant property) to perform the services as arranged and you do not have a good reason for this, we may charge you additional costs incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to the property we may end the contract and clause 12(ii) will apply.

(v) **Reasons we may suspend the supply of products to you.** We may have to suspend the supply of a product to:

- a. deal with technical problems or make minor technical changes;
- b. update the product to reflect changes in relevant laws and regulatory requirements;
- c. make changes to the product as requested by you or notified by us to you (see clause 10).

We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product for these reasons, we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it (or tell you we are going to suspend it) for a period of more than two months and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.

(vi) **We may also suspend the supply of products if you do not meet your obligations.** If you do not meet your obligations under this contract (for instance, when you do not pay us for the products when you are supposed to), then we might suspend our supply of the products until you start meeting your obligations. We will contact you to tell you we are suspending supply of the products. We will not suspend the products where you dispute an unpaid invoice (see clause 6(iv)). We will not charge you for the products during the period for which they are suspended.

(vii) **When you own the goods.** You will own a product which is goods when we have received payment in full (in cash or cleared funds) for the goods and all other sums that you are due to pay us.

(viii) **When you become responsible for the goods.** A product which is goods will be your responsibility from the time we deliver the product to the address you gave us.

## 9. YOUR OBLIGATIONS

(i) **Co-operation.** You must co-operate with us in relation to our provision of the products – for example, you must provide us with uninterrupted access to any premises and other facilities as we reasonably require in order to provide the products.

(ii) **Providing information.** You must promptly provide us with the information and materials that we reasonably request in order to supply the products. You must ensure that the information you provide to us (such as a specification, drawings, designs, descriptions and other information) – whether you provide it in writing or verbally – is complete and accurate in all material respects and is in accordance with your requirements.

(iii) **Premises and equipment.** You must prepare your premises (or other relevant premises) and any relevant equipment (which could include hardware or software interfaces, amongst other things) for the supply of the products.

(iv) **Permission of the premises owner.** If we are providing services on a premises that you do not own, it is your responsibility to obtain the consent of the owner for us to access and attend the premises and provide the services.

(v) **Keep our property safe.** Where we leave materials, equipment, documents or other property at your premises (or at the premises where the products are provided or another storage area that you have directed us to use), you will be responsible for those items and must keep them safe and in good condition until they are returned to us. You must not dispose of or otherwise use those items unless we instruct or authorise you to do so in writing.

(vi) **Timescales.** If we have agreed a timescale or deadline for you to do certain things, you must meet those timescales.

## 10. YOUR AND OUR RIGHTS TO MAKE CHANGES

(i) **Your rights to make changes.** If you wish to make a change to the product you have ordered please contact us. We will let you know if the change is possible. If it is possible, we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, you may be able to end the contract (see clause 11).

(ii) **Our rights to make minor changes.** We may make changes to our products (and/or the specification on which the products are based) where:

- a. this necessary to reflect changes in relevant laws or regulations (e.g. safety requirements); or
- b. to implement minor technical adjustments and improvements. These changes will not affect the nature or quality of the products in a significant way and will not affect your use of the product.

(iii) **If we need to make more significant changes, we will let you know.** If we need to make more significant changes to these terms or to our products, we will notify you of this. You may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received.

## 11. YOUR RIGHTS TO END THE CONTRACT

(i) **Before we have confirmed your online order.** You can cancel your order for any reason up until it has been accepted by us and you receive a confirmation email, by sending an email to [sales.uk@somfy.com](mailto:sales.uk@somfy.com).

(ii) **Where we are at fault.** Where you are ending the contract for one of the reasons set out at sub-clause a to d below, the contract will end immediately and we will refund you in full for any products which have not been provided. You may also be entitled to compensation. The reasons are:

- a. we have told you about an upcoming change to the products or these terms, which you do not agree to;
- b. we have told you about an error in the price or description of the products you have ordered and you do not wish to proceed;
- c. there is a risk that supply of the products may be significantly delayed because of events outside our control or because we have informed you that we are suspending the supply of products; or
- d. you have a legal right to end the contract because of something we have done wrong (including where we have failed to provide services with reasonable care or skill).

(iii) **Warranty for goods.** We provide a warranty for goods you have ordered for the Periods listed in sub-clause (iv) below. In addition to any other rights you may have under these terms, we will offer to repair or replace those goods if they are defective within the relevant Period where those defects have arisen:

- a. after the goods have solely been used properly and in accordance with any instructions that we have provided you with respect to their use;
- b. solely as a result of faulty design (other than a design made, furnished or specified by you and/or detailed in the specification), materials or workmanship,

provided that you return the defective goods to us upon our request.

(iv) The "**Periods**" referred to in sub-clause (iii) above are as follows:

- a. in the case of Somfy-branded Products (motors, accessories, control points, automation, control and connected solutions) for rolling shutters, swinging shutters (out of batteries), external/interior blinds (excluding batteries), pergola, curtains, security (alarm systems and cameras), garage doors and Invisio integrated gate motorisation, 5 years from the date of purchase;
- b. in the case of Somfy Products for rolling shutters for the S&SO RS 100 and Oximo WireFree RTS solar solution (motor, panel and battery installed exclusively together), 7 years from the date of manufacture with the exception of the battery for Somfy WireFree motor for interior blinds and curtains, for which the Period is 2 years from the date of purchase;
- c. in the case of Somfy-branded motors (excluding Invisio integrated motorisation for gate), control box, kits for gates and batteries for swinging shutter motors, 3 years from the date of purchase.

(v) **Changing your mind within 14 days for online orders.** If you change your mind, you may cancel products ordered online within the 'cooling off' period (which is 14 days following the date of your order of services or 14 days following the date you receive any goods), and receive a refund of the price paid (if any). However, these rights do not apply in respect of:

- a. services that you have asked to be performed within the 14-day cooling off period. If you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind; and
- b. any products which become mixed inseparably with other items after their delivery.

(vi) In all other cases (if we are not at fault and there is no right for you to change your mind), you will not have a right to a refund.

## 12. OUR RIGHTS TO END THE CONTRACT

(i) **We may end the contract if you break it.** We may end the contract for a product at any time by writing to you if:

- a. you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;
- a. you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products (for example, measurements that we require in order to supply the products);
- b. you do not, within a reasonable time, allow us to deliver the products to you or collect them from us; or
- c. you do not, within a reasonable time, allow us access to your premises to supply the services you have ordered.

(ii) **You must compensate us if you break the contract.** If we end the contract in the situations set out in sub-clause (i) above then we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

(iii) **We may withdraw the product.** We may write to you to let you know that we are going to stop providing the product. We will let you know at least 7 days in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided.

## 13. HOW TO END THE CONTRACT WITH US

(i) **Tell us you want to end the contract.** To end the contract with us, please let us know. You can use the cancellation form provided in the schedule to these terms, or by following the instructions given in your order confirmation email.

(ii) **Returning products after ending the contract.** If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person to where you bought them, post them back to us at Unit 7 Lancaster Way, Airport West, Yeadon, West Yorkshire, United Kingdom, LS19 7ZA or (if they are not suitable for posting) allow us to collect them from you. Please call customer services on 0113 3913030 or email us at sales.uk@somfy.com for a return label or to arrange collection. If you are exercising your right to change your mind, you must send off the goods within 14 days of telling us you wish to end the contract.

(iii) **When we will pay the costs of return.** We will pay the costs of return:

- a. if the products are faulty or misdescribed; or
- b. if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong.

In all other circumstances (including where you are exercising your right to change your mind) you must pay the costs of return.

(iv) **What we charge for collection.** If you are responsible for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection.

(v) **How we will refund you.** We will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make deductions from the price if you are exercising your right to change your mind as follows:

- a. we may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. If we

refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount;

- b. the maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 7 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option;
- c. where the product is a service, we may deduct from any refund an amount for the supply of the service for the period for which it was supplied, ending with the time when you told us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the contract.

(vi) **When your refund will be made.** We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind then:

- a. if the products are goods and we have not offered to collect them, your refund will be made within 14 days from the day on which we receive the product back from you or, if earlier, the day on which you provide us with evidence that you have sent the product back to us. For information about how to return a product to us, see clause 13(ii);
- b. in all other cases, your refund will be made within 14 days of your telling us you have changed your mind.

#### **14. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU. IT IS IMPORTANT THAT YOU READ THIS CLAUSE IN FULL.**

(i) **There are certain liabilities which cannot be excluded by law and nothing in this contract limits our liability where it is unlawful to do so.** This includes liability for death or personal injury caused by our negligence, our fraud, or for breach of your statutory rights.

(ii) **We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

(iii) **When we are liable for damage to your property.** If we are providing services in your property, we will make good any damage to your property caused by us while doing so. However, we are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover while providing the services.

(iv) **We are not liable for business losses.** We only supply the products to you for domestic and private use. If you use the products for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

#### **15. HOW WE MAY USE YOUR PERSONAL INFORMATION**

**Our Privacy Policy.** We will only use your personal information as set out in our [Privacy Policy](#).

#### **16. INTELLECTUAL PROPERTY**

(i) **Ownership of intellectual property rights.** Any intellectual property rights (such as a patent, trade mark, copyright, registered design, amongst other things) that arises out of or in connection with the supply of products (other than intellectual property rights in any materials provided by you) shall be owned by us.

(ii) **You have a right to use the products.** We will grant you a right to use our intellectual property rights only to the extent that this is necessary for you to receive and use the products for the purposes for which they have been provided to you. You cannot transfer this right in any way to anyone else.

(iii) **We can use your materials.** You must grant us a right to use, copy and modify any materials that you provide to us for the purposes of providing products to you. Where you provide us with materials or a specification, and our use of the materials or specification causes a third party to claim that we have (actually or allegedly) infringed its intellectual property rights, then you will be responsible for paying the losses we incur as a result of or in connection with that third party's claim.

(iv) **Unauthorised software.** You must not use the products we supply in combination with software not supplied or approved in writing by us (on the specification or otherwise). If you do use products in combination with such software, and this causes a third party to claim that we have (actually or allegedly) infringed its intellectual property rights, then you will be responsible for paying the losses we incur as a result of or in connection with that third party's claim.

## 17. OTHER IMPORTANT TERMS

- (i) **We might ask other companies to assist us.** We may transfer or sub-contract our rights and obligations under this contract (or any part of it) to third-party companies without your consent. This will not affect the quality of the goods or services - where this is the case, those third-party companies will provide the Products and/or Services to the same standard that we would.
- (i) **Even if we delay enforcing these terms, they can still be enforced later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking the contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- (ii) **This contract is only between you and us.** No other person shall have any right to enforce any of these terms.
- (iii) **If a court finds part of these terms illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- (iv) **Complaints.** If you wish to make a complaint about an order or anything else, you can contact us at [sales.uk@somfy.com](mailto:sales.uk@somfy.com) or using the contact form available on our website. Where there is a disagreement between you and us about these terms, or you raise a complaint about our services, we will attempt to resolve this by discussing it with you. We will tell you the outcome of our investigation into your complaint and give you the chance to discuss it with us. If we have done something wrong, we will apologise to you.
- (v) These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

## **SCHEDULE - MODEL CANCELLATION FORM**

(Complete and return this form only if you wish to withdraw from the contract)

To Somfy Ltd, Unit 7, Lancaster Way, Airport West, Yeadon, West Yorkshire, LS19 7ZA ([sales.uk@somfy.com](mailto:sales.uk@somfy.com); 0113 3913030)

I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] contract of sale of the following goods [\*]/for the supply of the following service [\*],

Ordered on [\*/received on [\*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[\*] Delete as appropriate