

General Terms and Conditions of LUCOMA AG

Version 01 (valid from 01/03/2022)

1. Area of applicability

- 1.1. These General Terms and Conditions ("GTC") apply to all contracts concluded between LUCOMA AG and its customers on the purchase of goods and the performance of services. The version of the GTC respectively applicable at the time of the order shall be decisive. The GTC also apply to all future deliveries, services or offers made to the customer, even if they are not agreed or mentioned once more separately. Adjustments of the GTC by LUCOMA AG remain reserved. The applicable GTC can also be accessed on the website of LUCOMA AG and be received from LUCOMA AG.
- 1.2. LUCOMA AG is a stock corporation entered in the Swiss commercial register and with the primary purpose of manufacturing and distributing installation components, apparatuses, special machinery, tools and equipment (hereinafter referred to as: "Products").
- 1.3. Customer refers to any natural or legal entity who receives Products or services from LUCOMA AG.
- 1.4. These GTC are an integral part of the contractual relationship between LUCOMA AG and the customer. By placing the order/on conclusion of the contract, the customer confirms to be familiar with these GTC and acknowledges their binding applicability for the current as well as future business relationships. **Any existing GTC of the customer or third parties shall not be deemed agreed, even if LUCOMA AG does not object to their applicability in the specific case.** Even if LUCOMA AG refers to correspondence, which contains or refers to the general terms of the customer or a third party, this shall not constitute an agreement with regard to the applicability of such general terms and conditions. Changes and/or amendments to the contract or these GTC shall be accepted by LUCOMA AG only if they have been expressly agreed upon in writing. LUCOMA AG cannot be held liable based on verbal agreements or concessions.

2. Quotations, conclusion of contracts, scope of services and deliveries

- 2.1. All quotations of the LUCOMA AG are subject to change and non-binding, unless LUCOMA AG expressly points out their bindingness and period of validity in writing. The customer's order shall be deemed a binding offer to conclude a contract.
- 2.2. The contract between LUCOMA AG and the customer shall become valid only insofar or only to the extent as the purchase order is confirmed in writing or by email by LUCOMA AG to the customer upon the order (order confirmation). The customer does not hold a claim for the conclusion of a contract.
- 2.3. All deliveries and services by LUCOMA AG are listed exhaustively in the order confirmation including attachments, if any.
- 2.4. The installation and maintenance of the ordered Products falls within the customer's responsibility. **The customer acknowledges that the installation and maintenance of the Products of LUCOMA AG shall be performed by trained technicians.** LUCOMA AG rejects any liability for damages resulting from improper installation or improper handling (meaning use, maintenance, cleaning) of the Products (cf. Sec. 12.2 below).

3. Drawing, technical documentation and price lists

- 3.1. Brochures, catalogues, and price lists, etc. shall not be binding without an explicit written agreement. LUCOMA AG reserves the right to make adjustments to brochures, catalogues, and price lists, etc. at any time. Information contained in technical documentation does not represent any assurance and shall be non-binding.

- 3.2. All technical documentation such as plans, drawings, descriptions, illustrations, dimensioned drawings, schematic drawings, and other information provided by LUCOMA AG serves as a rough description of the Products and might differ from them. LUCOMA AG reserves the right to make adjustments to technical documentation at any time.
- 3.3. LUCOMA AG shall retain its rights on technical documentation. The customer acknowledges these rights of LUCOMA AG and it shall ensure that these documents are not accessible to third parties and that they will be destroyed and disposed of appropriately and confidentially when they are no longer used.

4. Price/Terms of payment

- 4.1. Unless expressly agreed otherwise, all prices are understood to be net amounts without the value added tax and ex works (works of LUCOMA AG, Incoterms 2020) without packaging. All transport and incidental costs shall be at the expense of the customer.
- 4.2. Changes to orders made by the customer shall be binding only upon explicit confirmation by LUCOMA AG. LUCOMA AG may refuse making changes to orders without a statement of reasons. In case of changes of the orders, LUCOMA AG reserves the right to adjust prices prior or after confirmation of the changed order. Work not included in the contractual price shall be invoiced separately.
- 4.3. Invoices shall be paid as agreed. Unless agreed otherwise, a payment period of 30 days in the net amount from receipt of the invoice applies, which shall be automatically deemed the date of expiry. If the buyer does not meet the agreed payment dates, it will be in default without dunning as of the agreed due date and be required to pay default interest of 5% per year. From the second dunning, an additional processing fee of CHF 30.00 per dunning will be charged. Claims of further damages remain reserved. If the customer is in default with its payments or if it is obviously insolvent, LUCOMA AG shall have the right to withdraw from the contract without further statement and demand the return of any Products already handed over including any documentation.
- 4.4. LUCOMA AG reserves the right in all cases to hand over or deliver the Products only against advance payment of a partial amount or the total amount. The amount of the advance payment shall be at the sole discretion of LUCOMA AG and be determined in the specific case. In this case, a payment period of 30 days from receipt of the invoice shall apply to the remaining amount.
- 4.5. The customer acknowledges and declares its agreement that LUCOMA AG may perform a credit check and obtain data of the customer. LUCOMA AG reserves the right to reject the order or also modify the conditions of the order in retrospect if the credit check returns negative results. The evaluation in this respect is at the sole discretion of LUCOMA AG.

5. Withdrawal

The customer cannot withdraw unilaterally from the contract or an order. If the customer intends to withdraw from the contract, LUCOMA AG may declare its agreement to the withdrawal or continue the performance of the contract without a statement of reasons. In the event of a withdrawal, the customer shall hold LUCOMA AG completely harmless, i.e. it shall pay the costs and expenses already incurred, as well as costs of disposal and lost profit for the complete contract volume.

6. Reservation of title

LUCOMA AG shall remain the owner of its entire deliveries up until receipt of the complete payments in accordance with the contract. The buyer shall authorise LUCOMA AG on the conclusion of the contract to have the reservation of title entered in all registers and fulfil all formalities in this regard at the buyer's expense. The buyer shall maintain the delivered items at its cost throughout the duration of the reservation of title and insure them in favour of LUCOMA AG for all risks.

7. Delivery periods and dates

LUCOMA AG places great value on keeping delivery periods and dates. However, due to production or delivery bottlenecks, deficient stock inventory data or similar, delays might arise, nonetheless. Information regarding delivery periods is therefore given without warranty and can be adjusted unilaterally by LUCOMA AG at any time. LUCOMA AG shall be permitted to make part deliveries and partial performances. Delivery delays shall give the customer neither a right to withdraw from the contract nor demand damage compensation.

8. Place of delivery/performance

The Products shall be delivered by LUCOMA AG ex works LUCOMA AG, 3646 Einigen, Spiez (Incoterms 2020). The factory of LUCOMA AG is located at its place of business, which shall also be the place of delivery and performance.

9. Rights and risk

- 9.1. Rights and risk shall transfer to the customer upon the outbound delivery at the place of delivery. LUCOMA AG expressly rejects any liability for transport damages and damages occurring in the course of loading or unloading of the shipment.
- 9.2. If the shipment is delayed for reasons caused by the customer or its buyer, the customer will be in delay of acceptance and the risk shall transfer to the customer at the originally intended point in time. From this time onward, the delivery shall be stored by the LUCOMA AG on account and at the risk of the customer in accordance with legal regulations and, if necessary, be insured and invoiced accordingly.

10. Notices of defects

- 10.1. The customer undertakes to inspect the Products carefully for functional condition, completeness, and absence of damages directly upon receipt. Any defects shall be notified in writing to LUCOMA AG within 10 days (in case of deliveries outside of the EU: 30 days) upon receipt of the Products.
- 10.2. The customer's payment obligation shall not be affected by claims of defects of the Products.
- 10.3. After expiration of the period for the notification of defects, LUCOMA AG shall not perform any warranty for defects that were detectable to the customer on receipt or acceptance of the Products or which it should have detected in the course of a careful inspection.
- 10.4. If defects occur only at a later time (so-called hidden defects), the notification must be sent at the latest within 7 days after discovery; otherwise, the Products will be deemed approved also in light of these defects.
- 10.5. The date of the receipt of the notification of defect by LUCOMA AG shall be decisive for the observation of the period for the notification of defects.

11. Data protection

LUCOMA AG makes data protection a priority and uses customer data only to the required extent and within the scope of the legal regulations. The customer may contact LUCOMA AG at any time in case of questions or concerns relating to data protection. More information on data protection can be accessed on the website of LUCOMA AG and be obtained from LUCOMA AG in addition.

12. Warranty

- 12.1. In the case of defects on the delivered Products of LUCOMA AG and if the customer has reported these defects in writing within due time, **LUCOMA AG shall be obligated at its choice** to either replace the defective Products by equal or equivalent Products, repair them or contract third parties to repair them, or issue a credit note to the customer in the amount of the net price.
- 12.2. **Any warranty is excluded if the customer or third parties make any adjustments or manipulations on the Products in any way without the explicit approval of LUCOMA AG.** The warranty shall likewise not apply to defects that are due to improper handling, installation or use, excessive load, disregard for operating rules, use for purposes other than the intended purpose, unsuitable operating supplies or external effects (contact with liquids, impacts, chemical or electrolytical influences, etc.), incorrect or deficient cleaning or maintenance. The customer is responsible for the technically correct use as appropriate to the system, cleaning and regular maintenance. Maintenance not performed or performed incorrectly will result in the loss of warranty rights. The warranty will furthermore expire if the Products are serviced or repaired by persons not certified or not qualified.
- 12.3. Assured properties and conditions are only those that have been expressly referred to as such by LUCOMA AG in the order confirmation.
- 12.4. The limitation period for any hidden defects (Sec. 9.4) is 5 years from the transfer of risk. The period for notification of defects and the limitation period shall be observed and kept independently of each other.

13. Exclusion of further liability of LUCOMA AG

- 13.1. **The warranty granted by LUCOMA AG is described completely and finally in Section 12 above. All further potential claims of the customer against LUCOMA AG, in particular, for revocation or reduction, are expressly waived.** Furthermore, **the customer shall not be entitled to any claims for the compensation of damages that have not occurred directly on the Products themselves.** This includes costs for the search of causes of damages, expert reports and consequential damages of any kind, for example, loss of use, downtimes, loss of income, lost profit and similar.
- 13.2. LUCOMA AG shall not be liable for simple negligence and excludes liability for gross negligence of assistants.
- 13.3. LUCOMA AG shall likewise not be liable for delays of delivery or natural wear and tear of the Products.
- 13.4. Liability of LUCOMA AG is excluded for damages of any kind and other circumstances giving rise to claims, which occur as a consequence of force majeure, such as natural disasters, epidemics, pandemics, mobilisation, war, unrest, significant business disruptions, accidents, labour conflicts, belated or incorrect supply of raw materials, subassemblies and semi-finished products, lack of availability of important components, measures by authorities (embargos, export or import restrictions).
- 13.5. If contrary to the foregoing liability exclusion, it should nonetheless be found that LUCOMA AG is liable, its liability shall be limited in all cases to its maximum insurance cover.

14. Assignment and pledging

The claims in the customer's entitlement against LUCOMA AG may be neither assigned nor pledged without the explicit written agreement of LUCOMA AG.

15. Confidentiality/Intellectual property

- 15.1. The Parties shall treat all facts as confidential, which are neither obvious nor generally accessible.
- 15.2. All programs developed by LUCOMA AG and the know-how relating to the machines, as well as other intellectual property rights shall remain the exclusive property of LUCOMA AG. The customer undertakes to use the Products only for the agreed purpose and make them accessible to third parties only to the extent that this is essential for the correct use.

16. Final provisions

- 16.1. Any change of these GTC requires the written form.
- 16.2. If individual provisions of these GTC should be invalid, the remaining provisions of the contract shall nonetheless remain in full force and effect. The Parties shall replace the invalid provision with a valid provision, which comes closest to the economic purpose of the invalid provision and the originally agreed balance of interests under the contract. The same also applies to any omissions in the contract.
- 16.3. These GTC have been translated into French and English. In the case of any contradictions or doubts, the German version shall be decisive.
- 16.4. The place of the registered office of LUCOMA AG shall be the exclusive place of jurisdiction for potential legal disputes. Exclusively Swiss law governs the legal relationship between the Parties. This applies in particular also if the customer is domiciled abroad. The regulations of the Vienna Convention (UN Convention on Contracts for the International Sale of Goods of 11 April 1980) are waived.