

# Terms and conditions business customers

## Definition of terms

**Luca Lifestyle** The private limited company Luca Lifestyle, located at

De Peel 2, 4264 KK Veen. Registered at the Dutch Chamber of Commerce under number KVK 64627012, the user of these terms and conditions.

**Agreement** An agreement between Luca Lifestyle and a Customer in relation to one or more services/items to be rendered/delivered by Luca Lifestyle.

**Conditions** These terms and conditions of which Luca Lifestyle is the user and which applies to the agreements between Luca Lifestyle and another business party.

**Customer** The other party who is a legal entity or a natural person who acts in the capacity of exercising a profession or business.

**Article(s)** The item/items delivered by Luca Lifestyle.

**Website** The website of Luca Lifestyle

## Article 1: Applicability

- These Conditions apply to all offers, orders and Agreements of Luca Lifestyle, to the exclusion of any other terms and conditions. Accepting an offer or making an order entails that the Customer accepts the applicability of these Conditions and accepts that these are part of the concluded Agreement.
- Deviations from these Conditions can only be agreed upon in writing and only apply to the specific Agreement to which the deviations relate to.
- The applicability of any purchase conditions or other terms and conditions of the Customer are expressly ruled out.
- If one or more provisions in these Conditions are void or voidable, in whole or in part, at any time, then the other provisions in these Conditions remain in full force and effect. Luca Lifestyle and the Customer will then enter into consultation in order to agree upon new provisions to replace the void or voided provisions, for which the purpose and scope of the original provisions are observed as much as possible.
- In addition to these Conditions, additional conditions may apply to certain Articles if expressly indicated.
- Luca Lifestyle reserves the right to amend or add to these Conditions. Amendments also apply to already concluded Agreements with due observance of a period of thirty (30) days after communication of the amendment by (electronic) information. Amendments of subordinate importance can be implemented with immediate effect.
- If a Customer does not want to accept an amendment to these Conditions in accordance with the previous paragraph which would be negative for the Customer, then he/she is required to communicate this to Luca Lifestyle prior to the date that the new conditions come into effect. Luca Lifestyle may then withdraw the relevant amendment, after which it will no longer apply for this Customer. If Luca Lifestyle does not wish to withdraw the amendment, then the Customer is entitled to terminate the Agreement with effect from this date or at the date of receipt of the notice of termination if this is after the effective date of the amendment.
- All rights and claims, as stipulated in these Conditions and in any further Agreements for Luca Lifestyle, are also stipulated for intermediaries and other third parties made use of by Luca Lifestyle.
- In the event that these Conditions and the Agreement comprise contradictory provisions, the conditions included in the Agreement prevail.

## Article 2: Offers/agreements

- All offers of Luca Lifestyle are free of obligation and while stocks last. Luca Lifestyle expressly reserves the right to change the prices, particularly whenever this is necessary pursuant to (legal) regulations.
- Statements of Luca Lifestyle, including images, drawings, indications of capacities, specifications, schedules, prices, price lists, materials lists, brochures and other information on the Website pertaining to Articles are indicative and only apply as invitation to make an offer. Expressly subject to deviations in colour, type, text and/or price changes.
- For placement of an order, the Customer acknowledges that he/she is aware of the currently applicable European legislation/warnings/use pertaining to the Articles as well as the obligation to inform the own purchasers about these matters.

- The Agreement is formed by the confirmation of Luca Lifestyle of the order of the Customer, or by commencement of the execution of the order by Luca Lifestyle. Confirmation can take place by electronic means or, if this has been agreed upon, in writing (by fax or letter). The order confirmation is considered to correctly and completely represent the Agreement, unless the Customer objects to this in writing or electronically within 3 (three) working days after receiving the order confirmation.
- Each Agreement is concluded under the suspensive condition of sufficient availability of the Articles in question.
- Luca Lifestyle is not obligated to its offers if the Customer, according to the standards of reasonableness and fairness and according to generally accepted standards, should have understood that the offer or a part of it contains an obvious mistake or clerical error.
- Oral promises only obligate Luca Lifestyle after they have been confirmed expressly and in writing.
- Luca Lifestyle has the right to attach conditions to the execution of an order, such as for example requesting a prepayment or advance payment, or other security, and may refuse an order of a Customer without giving reasons.
- Offers of Luca Lifestyle do not automatically apply for repeat orders and/or other Customers.
- Luca Lifestyle is entitled to make use of third parties for the execution of the Agreement.
- The Customer is required to take delivery of the Article as it is offered at the moment of the order including the package, language, texts on the package etc., as offered at that time.

## Article 3: Prices

- Prices are in euro, excluding VAT, other government levies and shipping costs, unless specified otherwise in writing. The prices specified on the Website and in the advertisement may be changed without prior notification.
- Luca Lifestyle is not responsible for any import or customs levies, if the order is sent to a different country than the Netherlands. The Customer is required to pay these costs.

## Article 4: Invoicing and payment

- Unless agreed upon otherwise in writing, the following provisions apply:
- for orders from stock, the Articles are delivered after receiving the full payment;
- for orders of large numbers on the basis of subsequent delivery, 50% advance payment is invoiced and 50% after delivery;
- for Articles manufactured according to the specifications of the Customer, which are not premanufactured and which are manufactured on the basis of an individual choice or decision of the Customer, or which are clearly meant for a specific Customer, 100% advance payment is invoiced.
- Payment should take place within 8 (eight) days after the invoice date unless agreed upon otherwise in writing. Complaints about invoices need to be submitted in writing within 5 (five) working days after the date of dispatch of the invoices.
- If a Customer remains in default when it comes to the timely and/or full payment of an invoice, then the Customer is in default by operation of law. The Customer then owes an interest of 1.5% per month or a part of a month, unless the statutory commercial interest rate is higher, in which case the statutory commercial interest rate is owed. The interest on the due and payable amount will be calculated from the moment that the Customer is in default up to the moment that the full owed amount is paid.
- If a Customer remains in default when it comes to the timely and/or full payment of an invoice, then any discounts provided by Luca Lifestyle expire.
- The Customer is never entitled to settle what the Customer owes to Luca Lifestyle. Complaints about the amount of an invoice do not suspend the payment obligation. Customers which do not invoke section 6.5.3 (articles 231 to 247 of Book 6 of the Dutch Civil Code) are also not entitled to suspend the payment of an invoice for any other reason.
- If a Customer is in default when it comes to the (timely) performance of his or her obligations, then all reasonable costs to obtain an out-of-court settlement are at the expense of the Customer. The extrajudicial costs amount to 15% of the outstanding amount with a minimum of € 125

## Article 5: Delivery and delivery periods

- All (delivery) periods specified by Luca Lifestyle are approximate and are determined on the basis of information and circumstances as known by Luca Lifestyle at the time of entering into the Agreement. Indicated delivery periods are never strict deadlines.
- Exceeding the delivery periods indicated by Luca Lifestyle, regardless of the reason why, never gives the Customer the right to damages or non-performance of any obligation that rests on the Customer pursuant to the relevant Agreement or a related agreement.
- Deliveries are while stocks last. Luca Lifestyle can never guarantee that an order is (fully) delivered. In the event of failure of (full) delivery of agreed upon numbers, the amount which is already paid (too much) by the Customer is credited. Not being able to (fully) deliver an agreed upon Article never gives a right to damages under any circumstance.
- Luca Lifestyle is entitled to suspend the commencement of the execution of the Agreement until the advance payment is paid or if sufficient security has been provided.
- For the delivery, the risk of the Articles in question with everything related to it transfers to the Customer.

## Article 6: Transport and packaging

- In the event that transport by Luca Lifestyle has been agreed upon, the method of transport/shipment by Luca Lifestyle as good parent/trader is determined and transport costs are charged.
- Luca Lifestyle is not liable for any damage during or as a result of the delivery that arises on the side of the Customer or third parties unless it is demonstrated that the damage is the result of gross negligence, failure to act, or intent on the side of Luca Lifestyle.
- The risk of the Article transfers to the Customer at the time of delivery.
- For the orders of Articles to be delivered by Luca Lifestyle, the location of delivery needs to be described as accurately as possible. Unless agreed upon otherwise, delivery takes place at the address that the Customer has indicated to Luca Lifestyle.
- Any specific wishes of the Customer concerning the transport/the shipment, are only carried out if the Customer has stated to pay its additional costs.
- Deviating conditions may apply for deliveries abroad.
- Luca Lifestyle is not responsible for any delay which occurs with the delivery by any transporter hired by Luca Lifestyle.
- The packaging of the Articles is as it has been supplied to Luca Lifestyle by the manufacturer/supplier, unless agreed upon otherwise in writing.

## Article 7: Articles not taken delivery of

- The Customer is obligated to take delivery of the Articles which are the subject of the Agreement at the agreed upon location at the end of the delivery period and/or execution period.
- The Customer is required to grant all cooperation which can reasonably be expected of the Customer in order to enable Luca Lifestyle to make the delivery.
- Articles not taken delivery of are stored at the risk and expense of the Customer.
- Upon violation of the provisions from paragraphs 1 and/or 2 of this article, the Customer owes a penalty to Luca Lifestyle of € 250 per day with a maximum of € 25,000. This penalty can be claimed pursuant to the law in addition to damages.
- For Articles manufactured according to the specifications of the Customer, which are not premanufactured and which are manufactured on the basis of an individual choice or decision of the Customer, or which are clearly meant for a specific Customer, the amounts specified in the previous paragraph are increased with 100%.

## Article 8: Retention of title and right of retention

- All Articles delivered by Luca Lifestyle in the context of the Agreement remains the property of Luca Lifestyle until the Customer has adequately complied with all obligations from the Agreement(s) concluded with Luca Lifestyle.
- Article delivered by Luca Lifestyle which are subject to the retention of title cannot be resold except in the context of the normal exercising of a company, unless Luca Lifestyle has demanded from the Customer in writing to immediately make the delivered Articles available to Luca Lifestyle. The Customer is not entitled to pledge or in any other way encumber the Articles subject to the retention of title.
- The Customer is obligated to insure the Articles delivered subjected to retention of title.
- In the event that Luca Lifestyle wants to exercise its property rights referred to in this article, the Customer hereby gives unconditional and irrevocable permission to Luca Lifestyle and to third parties designated by Luca Lifestyle to access all those locations where the properties of Luca Lifestyle are located and to take back those Articles. If the Customer does not cooperate to this, then the Customer owes a penalty to Luca Lifestyle per day of 10% of the invoice amount of the Articles for each day that he/she remains in default.
- If Luca Lifestyle cannot invoke its retention of title because the delivered Articles have been merged, changed in form or have become a constituent element, then the Customer is obligated to pledge the newly formed Articles to Luca Lifestyle.
- Luca Lifestyle has the right of retention on all Articles from the Customer in possession of Luca Lifestyle, as long as the Customer has not complied with all its obligation towards Luca Lifestyle. The risk of the Articles remains with the Customer.

## Article 9: Complaints

- The Customer is obligated, after the Customer has ensured that the delivered Article is the correct one, to examine the Articles for defects immediately after delivery.
- Any complaints pertaining to the delivered Articles are only processed by Luca Lifestyle if they have made known in writing within 24 (twenty-four) hours after delivery, providing accurate description of the nature and the ground of the defects, substantiated with proof of evidence such as photos and with reference to the number of the invoice. After expiry of this period, the Customer is considered to have approved of what has been delivered.
- Minor deviations in quality of the delivered Articles, which are technically unavoidable or generally permissible in practices of the trade, cannot result in grounds for objection or for dissolution of the Agreement.
- The Customer is required to handle objections from its purchasers.
- Return shipments of Articles delivered by the Customer are only accepted after written permission from Luca Lifestyle by Luca Lifestyle. These return shipments are fully at the risk and expense of the Customer.
- The Customer cannot transfer rights pursuant to this article.

## Article 10: Warranty

- The warranty pertaining to the Articles delivered by Luca Lifestyle is limited, both as it relates to the content and the duration, to the warranty granted to it by the manufacturer/supplier.
- The Customer does not have any right to a warranty towards Luca Lifestyle if and to the extent that a warranty is still provided to Luca Lifestyle by the supplier of Luca Lifestyle or the manufacturer.
- Every warranty obligation lapses if the Customer makes or effects changes or repairs to the good that has been delivered, or in the event of damage which is not the result of normal use.

## Article 11: Suspension, dissolution and notice of termination in the interim period

- Luca Lifestyle is entitled to suspend the performance of the obligations or to dissolve the Agreement, if:
- the Customer does not perform the obligations from the Agreement, or does not do so adequately or in a timely manner;
- if circumstances that Luca Lifestyle becomes aware of after the conclusion of the Agreement provide good reason to doubt that the Customer will perform the obligations;
- the Customer, upon conclusion of the Agreement, is requested to provide security to satisfy his or her obligations from the Agreement and if this security fails to materialise or is insufficient;
- because of delay on the side of the Customer, Luca Lifestyle can no longer be asked to perform the Agreement under the originally agreed upon conditions.
- Luca Lifestyle is entitled to dissolve the Agreement if circumstances arise which are of such nature that performance of the Agreement is impossible or if other circumstances arise which are of such a nature that the unchanged sustainment of the Agreement cannot be reasonably asked of Luca Lifestyle.
- If Luca Lifestyle proceeds to suspension or dissolution, then Luca Lifestyle is in no way obligated to reimburse damage and costs which resulted from it in any way.
- If the dissolution is attributable to the Customer, then Luca Lifestyle is entitled to reimburse the damage, which includes the costs, which directly and indirectly resulted from it.
- If the Agreement is dissolved, then the receivables from Luca Lifestyle on the Customer are immediately due and payable. If Luca Lifestyle suspends the performance of the obligations, it reserves its claims pursuant to the law and the Agreement.
- Without prejudice to the other rights accruing to Luca Lifestyle, Luca Lifestyle is entitled to dissolve the Agreement without further notice of default in whole or in part by means of a written statement, or to cancel the order or Agreement, without any obligation on its side to pay any damages or compensation if the Customer is declared bankrupt, has requested suspension of payment, if the Debt Restructuring (Natural Persons) Act applies, his or her company is suspended or wound-up, a considerable part of his/her assets is or will be attached, or if he/she transfer the company to third parties.
- The risk of all delivered Article remains with the Customer in the event of dissolution.

## Article 12: Indemnification and other obligations of the customer

- The Customer indemnifies Luca Lifestyle of all claims for liability by third parties following Agreements concluded with Luca Lifestyle, and therefore of all claims of third parties towards damages towards Luca Lifestyle, regardless of the reason why, which also includes but is not limited to claims of third parties pursuant to product liability as referred to in article 6:185 and further of the Dutch Civil Code, or otherwise. The also Customer indemnifies Luca Lifestyle for all costs which Luca Lifestyle incurs for related legal assistance.
- In the event that Luca Lifestyle is addressed by third parties on that account, the Customer is obligated to assist Luca Lifestyle both judicially and extrajudicially and to immediately do all which can be expected of the Customer in that case.
- If the Customer remains in default when it comes to taking adequate measures, Luca Lifestyle is entitled to proceed to doing so on its own, without giving notice of default. All costs and damage on the side of Luca Lifestyle and third parties which resulted from this, is integrally at the risk and expense of the Customer.
- In accordance with European laws and legislation, the Customer is obligated to clearly inform his or her purchasers about the security, requirements and use of the Article such as minimum age, improper use, dangers, warning such as on the packaging and manual etc.
- For the resale, the Customer is expressly not allowed to offer the Article at a lower price than the recommended price applicable for the Article.
- The Customer ensures sound waste processing and environmental requirements/handling.

## Article 13: Intellectual property and confidentially

- The Customer is required to fully and unconditionally observe all intellectual property rights which rest on the Article delivered by Luca Lifestyle.
- The Customer expressly acknowledges that all rights of intellectual property of the displayed information, communications or other statements pertaining to the Articles and/or pertaining to the Website rests with Luca Lifestyle, its suppliers or other entitled parties.

- The Customer is not allowed to make use, which includes making changes to the Articles, of the intellectual property rights as specified in this article, such as reproduction, without the express prior written permission from Luca Lifestyle, its suppliers or other entitled parties.
- The Customer indemnifies Luca Lifestyle both judicially and extrajudicially for all claims which third parties may enforce pursuant to the Copyright Act or other national, supranational or international legislation pertaining to copyright law, as it relates to the execution of the Agreement.
- Unless obligated by any legal provision, regulation or other rule, the Customer is obligated to maintain confidentiality towards third parties when it comes to confidential information which has been acquired from Luca Lifestyle. Information is considered confidential if this has been communicated by the other party or if this follows from the nature of the information such as purchase prices, material and the content of the Agreement.

## Article 14: Liability

- Luca Lifestyle is solely liable for direct damage and loss. Direct damage and loss is meant to be understood as the reasonable costs to ascertain the cause and extent of the damage and loss, to the extent that ascertaining this relates to damage and loss as referred to in these conditions, any reasonable costs incurred to ensure that the defective performance of Luca Lifestyle complies to the Agreement, to the extent that these can be attributed to Luca Lifestyle and reasonable costs, incurred to prevent or limit damage and loss, to the extent that the Customer demonstrates that these costs have resulted in the limitation of direct damage and loss as referred to in these Conditions.
- The following is not eligible for compensation:
  - consequential damage and loss such as business interruption loss;
  - production loss, lost profit, transport costs and travel and accommodation costs;
  - damage caused by intent or deliberate recklessness of auxiliary persons or subordinates of Luca Lifestyle who are not superior officers.
- The liability of Luca Lifestyle for damage concerning death or bodily injury is limited to the amount which is paid out for the matter pursuant to an insurance contract concluded by Luca Lifestyle.
- The Customer is obligated to report a damage within fourteen (14) days after the damage incident to Luca Lifestyle in writing. If this communication is not done or is done too late, then Luca Lifestyle is in no way whatsoever obligated towards the Customer to remedy the suffered damage.
- For any consequences of not having Articles in stock, Luca Lifestyle does not accept any liability.
- Luca Lifestyle is not liable for advice noted on the Website, nor is Luca Lifestyle liable for deviations in prices, images and texts of information noted on the Website or other documentation of Luca Lifestyle.
- The limitation of the liability as stipulated in this article applies equally for employees and all persons which are used by Luca Lifestyle to execute the Agreement.
- It is possible that Luca Lifestyle includes internet site links on the Website to other internet sites which could possibly be interesting or informative for the visitor. Such links are for information purposes only. Luca Lifestyle is not responsible for the content of the internet site which is referred to or the use which can be made of it.
- Limitations of liability in this article do not apply if there is damage or loss which is the result of malicious intent or gross negligence, which can be proven by the Customer, on the side of the superior officers of Luca Lifestyle.
- After twelve (12) months counting from the day of delivery, any right of the Customer towards Luca Lifestyle pertaining to damage or loss resulting from any failures and/or errors of Luca Lifestyle for the performance of the Agreement comes to lapse.

## Article 15: Force Majeure

- Without prejudice to the other rights that accrue to Luca Lifestyle, Luca Lifestyle has the right to, at own discretion, suspend the execution of the order or to dissolve the Agreement without judicial intervention in the event of force majeure. This will be communicated to the Customer in writing. In this case, Luca Lifestyle will not be obligated to pay any damages, unless this would be unacceptable in the given circumstances according to the standards of reasonableness and fairness.
- Force majeure in these Conditions is meant to be understood, in addition to what it is understood as by law and case law, all causes originating from the outside, either foreseen or unforeseen, which is outside of the control of Luca Lifestyle, but because of which Luca Lifestyle is not able to comply with the obligations. During the period that the force majeure continues, the parties may suspend the obligations from the Agreement. If this period lasts for longer than three (3) months, each of the parties is entitled to dissolve the Agreement, without obligation to reimburse damage or loss to the other party.
- To the extent that Luca Lifestyle has, at the time of the occurrence of the force majeure, partially performed the obligations from the Agreement or will be able to perform these, and accrues independent value to the performed respectively the part to be performed, Luca Lifestyle is entitled to separately invoice the already performed respectively the part to be performed. The Customer is obligated to pay this invoice as if it were a separate agreement.

## Article 16: Communication

- The Customer and Luca Lifestyle expressly agree to each other that by making use of electronic means of communication, a valid Agreement is formed, as soon as the conditions in article 2 are met. In particular also the lack of a

normal signature does not affect the binding force of the offer and its acceptance. The electronic files of Luca Lifestyle will, to the extent permissible by law, hereby apply as a supposition of evidence.

- For misunderstandings, corruptions, delays or inadequate coming across of orders and communications as a result of the use of internet or any other means of communication in the interaction between the Customer and Luca Lifestyle, or between Luca Lifestyle and third parties, to the extent that it relates to the relationship between the Customer and Luca Lifestyle, Luca Lifestyle is not liable for it, unless and to the extent that there is malicious intent or gross negligence from Luca Lifestyle.

## Article 17: Dutch law and disputes

- The Dutch law applies exclusively to each Agreement concluded by Luca Lifestyle.
- Disputes which may arise between the parties following the Agreement or following further agreements which are the result of this Agreement, are settled by means of arbitration with the foundation DigiTrage, located in Utrecht.
- The procedure proceeds via [www.digitrage.nl](http://www.digitrage.nl) in accordance with the Rules of Procedure of the foundation DigiTrage. The Rules of Procedure are published on the aforementioned website. The Rules of Procedure may also be requested with Luca Lifestyle and are part of the Agreement.
- Each party also has the right to turn to the competent regular court as long as the dispute has not been submitted to the foundation DigiTrage.
- In the event that Luca Lifestyle submits a dispute to the foundation DigiTrage, but the Customer prefers a procedure with the regular court, this has to be made known by the Customer within one month after the submission has been made known in writing.
- Aforementioned provisions also apply if an Agreement is executed in whole or in part abroad or if the party involved with the legal relationship has their place of residence or business there. The Vienna Convention on Contracts for the International Sale of Goods does not apply, nor does any other international scheme whose exclusion is permitted.

## Article 18: Source and amendment conditions

- These Conditions are filed with the Dutch Chamber of Commerce on 23 October 2018 under number 18131324 and will be sent free of charge by Luca Lifestyle upon request. In addition, these Conditions can be downloaded and saved using the Website.
- The most recent filed version or the version which applied at the time of the formation of the legal relationship with the Customer always applies.
- The Dutch text of these Conditions is always the determining factor for its interpretation.