

LUXCO WAX

General Terms and Conditions of Sale (The “Agreement”)

1. Terminology

- 1.1 Lux International Corp is hereinafter termed “Luxco Wax”. The party who places the Order is hereinafter termed the “Purchaser”.
- 1.2 The goods covered by the Order are hereafter termed the “Product”.
- 1.3 “Performance” shall mean the service, shipment, or product, or any combination of them provided by Luxco Wax to Purchaser.
- 1.4 “Order” shall mean Purchaser’s requested performance as described in Purchaser’s Order.
- 1.5 “Equipment” shall mean truck, railcar, container, drum, or any equipment used to store, transport, or handling the Product.
- 1.6 Whenever the context so permits, the use of the plural shall include the singular and the singular shall include the plural.

2. Conditions

- 2.1 The conditions set forth in this General Terms and Conditions of Sale shall apply to the Order and notwithstanding any conflicting terms or conditions contained in Purchaser’s purchase order. Purchaser’s acceptance of the Performance shall constitute Purchaser’s agreement to the terms and conditions herein.
- 2.2 The agreed Performance, including but not limited to Product, specification, price, terms of payment, method of delivery, and freight term shall be governed by Luxco Wax’s confirmation of the Order and this Agreement.
- 2.3 Purchaser accepts the responsibility to verify all information in the Order. The Order combined with this Agreement, shall constitute the final terms and conditions of the Order unless Purchaser notifies Luxco Wax in writing of the contrary at least two business days prior to the shipment.
- 2.4 In case of conflicting term(s) between the Order and this Agreement, the term(s) stipulated in this Agreement shall prevail.

3. Quality and Claim

- 3.1 The Product sold and purchased in terms of this Agreement shall conform to the specification explicitly indicated by Luxco Wax
- 3.2 Certificates of analysis provided or obtained by Luxco Wax shall be deemed conclusive evidence of the matters stated therein.
- 3.3 All expenses and costs, relating to Luxco Wax’s collection of the outstanding account balance from the Purchaser, shall be paid by Purchaser if a collection action is taken by Luxco Wax, through a third party or legal process.
- 3.4 Claims on account of weight, quality, loss of or damage to the Products are waived unless made in writing to Luxco Wax within 10 calendar days after the Products have been delivered. Products which do not conform to specification or any other matter must be verified and confirmed by Luxco Wax’s representative, or by a neutral third party acceptable by Luxco Wax (in this case the third party certificate and its detail findings, supporting such claim, shall be made available to Luxco Wax.
- 3.5 Should the Purchaser fail to give such notice within 10 calendar days after the delivery, the Products shall conclusively presume to be in all respects in accordance with the Agreement and free from any defect.
- 3.6 In the event that Luxco Wax is satisfied that the Products are not in accordance with the Agreement or are so defective, Luxco Wax may elect to replace such quantity of Product which does not conform to specification by an equal quantity of Product or alternatively refund the purchase price to the Purchaser against return of the Products or refund the purchase price less the best value at which the Products can be disposed of.
- 3.7 Luxco Wax may change or alter the specifications of the Products. Luxco Wax will give Purchaser 30 days written notice of any proposed specification change. If Purchaser cannot accept the change, Purchaser may cancel purchase of the Products.
- 3.8 The Purchaser may not return the Product to Luxco Wax for any reason without an Authorized Return Number issued by Luxco Wax.
- 3.9 No Claim amount shall be used to offset customer’s outstanding account payable balance owed to Luxco Wax.

4. Quantity

- 4.1 Luxco Wax’s weights taken at shipping points shall govern.
- 4.2 Weighbridge certificates provided or obtained by Luxco Wax shall be deemed conclusive evidence of the quantities stated therein.
- 4.3 Shipment Quantity of within 10% of the Order quantity shall be accepted by Purchaser as complying with the Order, although Purchaser must pay for only the quantity actually delivered.
- 4.4 For product delivered in bulk tank trucks, bulk tank cars, or packaged shipments, claims may not be made for shortage of less than 0.5% of net weight.

5. Price and Payment

- 5.1 Prices for the Products sold under the Order shall be Luxco Wax’s prices in effect on the date of shipment, unless otherwise agreed in writing. Luxco Wax reserves the right to change the price without prior notice, except otherwise agreed.
- 5.2 The terms of payment are agreed before the first purchase, or when the account is set up. Luxco Wax reserves the right to change the payment term without any prior notice.

- 5.3 Purchaser will also pay any applicable taxes. All payments to be made by the Purchaser to Luxco Wax hereunder, shall be made gross and without any deduction whatsoever in respect of taxes, withholdings or otherwise.
- 5.4 Failure to settle an account by the due date shall entitle Luxco Wax to charge the Purchaser interest at a rate of one and a half percent per month, or the maximum allowable by applicable law(s).
- 5.5 Customer's outstanding account payable due to Luxco Wax shall be paid in accordance with the payment term established and not be offset by any claim or contra account unless specifically agreed by Luxco Wax in writing.

6 Title, Risk and Delivery

- 6.1 Risk in respect of the Product shall pass to the Purchaser on delivery as set out in the relevant Incoterm.
- 6.2 Unless it is otherwise indicated elsewhere in this agreement, delivery and sales terms are FOB shipping point.
- 6.3 Ownership of the Product shall pass from Luxco Wax to the Purchaser upon receipt of the Product by the Purchaser.
- 6.4 In the event that the Purchaser fails or neglects to pay the purchase price on the due date, Luxco Wax shall have the option at its absolute discretion to recover the Product, and claim costs incurred, and or to take legal action for the collection of the purchase price. In the event that such Product is delivered into Equipment which is the property of the Purchaser, the parties agree that although the Purchaser's and Luxco Wax's Product may have become mixed in the equipment, the Product withdrawn by Luxco Wax in terms of this clause up to the quantity delivered by Luxco Wax will be regarded as the sole property of Luxco Wax.
- 6.5 Luxco Wax will endeavor to dispatch the Products promptly and within the time indicated. All delivery dates specified or notices given are approximate. Luxco Wax will use all reasonable efforts to make deliveries in accordance with requested dates. However, Luxco Wax does not guarantee such dates and accepts no responsibility of failure to meet such delivery dates.
- 6.6 Luxco Wax may execute an Order in full shipment or in partial shipment, in which case all terms and conditions applicable to the whole shall apply to the partial fulfillment.
- 6.7 Should Luxco Wax be prevented from effecting delivery of the Performance, or Product or any part thereof by reason of any cause whatsoever beyond the control of Luxco Wax, the time for delivery shall be extended until a reasonable time after the operation of the preventing cause has ceased.
- 6.8 Luxco Wax shall not be liable for any loss or damage that may occur as a result of the delays referred to in clauses 6.5 & 6.7.

7 Containers and Railcars

Purchaser is responsible for protecting and returning in good condition any returnable drums or other containers, or railcars provided by Luxco Wax. Purchaser is responsible for ensuring that such drums, containers or railcars are empty before return. Railcars for bulk shipments will be furnished to Purchaser without charge for a period prescribed by Luxco Wax. Such railcars may be retained thereafter only with Luxco Wax's prior consent and subject to Luxco Wax's current daily charges.

8 Indemnity

- 8.1 The Purchaser indemnifies Luxco Wax and holds Luxco Wax harmless against any claims or actions resulting from:
 - 8.1.1 any unauthorized representations or Product warranties made by the Purchaser;
 - 8.1.2 any negligent acts of the Purchaser or its employees or contractors regarding the Products or the handling, mixing with other products, and use of the Products;
 - 8.1.3 any loss, damage or liability resulting from, or arising out of the handling, use, transport or storage of the Products after they have been delivered in accordance with the Order.
 - 8.1.4 claims by third parties for damage, death or injury arising from the Purchaser's failure to provide them with information in respect of, but not limited to, inherent hazards, correct use or storage of the Product.
- 8.2 The Purchaser acknowledges that it is familiar with the use, characteristics and inherent dangers, if any, of the Product.
- 8.3 The Purchaser acknowledges that the Product may require special handling, storage, transportation, treatment or use to comply with applicable safety and environmental laws, and Purchaser will take all action necessary to comply with these laws and avoid spills or other dangers to persons, property or the environment.

9 Liability

- 9.1 Luxco Wax does not give any warranties in respect of the Products or their use (all warranties implied by law are expressly excluded). The Purchaser waives any claim for loss, damage or liability which it might have against Luxco Wax arising from, but not limited to, claims based on the Products not being suitable for the Purchaser's purposes.
- 9.2 Notwithstanding anything contained herein or elsewhere, Luxco Wax shall not be liable for any consequential loss such as, but not limited to loss of profit, loss of production and loss of market share. In all instances Luxco Wax's liability shall be limited to the replacement of the Products concerned at no cost to the Purchaser or reimbursement of the purchasing price as set out in paragraph 3.6.
- 9.3 Any action that the Purchaser may have against Luxco Wax which may arise under this contract must be commenced within one (1) year after the cause of action has occurred.

10 Warranty

The Purchaser warrants that he has complied with all statutory requirements and is in possession of all the necessary permits, authorizations or any other official documents required for the purchase of Luxco Wax's Products. The Purchaser indemnifies and holds Luxco Wax harmless for any loss or damage, direct or consequential, caused by or arising from a breach of the warranty contained in this clause.

11 Variation of Agreement

- 11.1 These Terms and Conditions, read with any Annexures thereto, constitute the sole agreement between the Parties in regard to the subject matter thereof and supersede all prior and contemporaneous negotiations, offers, discussions, promises, representations, agreements and understandings of the Parties with respect thereto. Any inconsistencies introduced by the Purchaser's Order shall not apply unless expressly agreed to in writing by Luxco Wax.
- 11.2 No addition to or variation or agreed cancellation of this Terms and Conditions shall be of any force or effect unless agreed to in writing by or on behalf of the Parties.

12 Intellectual Property

- 12.1 Except as otherwise agreed upon in writing by the parties, the proprietary interests of all intellectual property in relation to the Product shall remain vested in Luxco Wax and no part of these Terms and Conditions shall be construed as investing upon the Purchaser any right, title or interest to such intellectual property.
- 12.2 If the Purchaser uses or sells the Product in such a manner as to infringe any patent rights of any third party, Luxco Wax shall not be held responsible or accountable for such infringement nor for any alleged infringement arising from the Purchaser's action in relation to the Product and the Purchaser hereby agrees to indemnify Luxco Wax from and against all liability including legal costs arising there from.
- 12.3 Except as permitted by express prior consent in writing by Luxco Wax, the Purchaser shall not use or cause or allow to be used by any other person or entity over which it exercises control either directly or indirectly ("Controlled Persons") as a part of any company or business name, or in any other manner in connection with the advertising and sale of the Product(s), any trademark or trade name adopted, owned, or used by Luxco Wax.
- 12.4 The Purchaser agrees not to use any Luxco Wax Trademarks for the purpose of representing, selling, and offering for sale or use, any goods other than the Product(s).
- 12.5 Immediately upon termination of this Agreement, the Purchaser shall remove from its premises and discontinue the use of any and all signs, labels, stationery, advertising, and reading materials with Luxco Wax Trademarks that, in Luxco Wax's opinion, may create confusion.

13 Confidentiality

- 13.1 The Purchaser undertakes to treat as confidential and not to use or disclose to any third party without Luxco Wax's prior written consent any information, technical knowledge, specifications, chemical make-up, data, materials and/or other communications of a confidential nature, either in tangible or non-tangible form, relating to or useful in connection with the design, construction or operation of the facilities and/or feedstock and/or products and/or business of Luxco Wax, disclosed to the Purchaser or that came to the Purchaser's knowledge pursuant to its contact with Luxco Wax.
- 13.2 This undertaking excludes information which the Purchaser can establish (a) at the time of disclosure, is, or, after disclosure, becomes generally known or available to the public through no act or failure to act by the Purchaser; (b) was already known to it prior to the disclosure by Luxco Wax; or (c) was rightfully acquired and free from restriction from a third party having an unrestricted right to disclose the same. For the avoidance of doubt Luxco Wax Marketing Brochures and Industrial SMDS' are considered to be public domain information

14 Governing Law and Jurisdiction

This Agreement shall be governed and construed in accordance with the laws of the State of California, USA.

15 Notices

All notices given in terms of this Agreement will be delivered to the parties at the respective addresses stated in the Order until changed in writing by either party.

16 Assignment

This Agreement is between Luxco Wax and the Purchaser as principals and is not assignable by either party except with the written consent of the other party.

17 Force Majeure

- 17.1 Neither party shall be liable for its failure to perform due to contingencies reasonably beyond its control, including, but not limited to, acts of God, flood, fire, war, accident, labor disputes or shortages, riots, sabotage, governmental laws, ordinances, rules and regulations, lack of equipment or feedstock, or inability to transport Product. The affected party will give the other party reasonable notice of any such contingency. In the event that Luxco Wax is unable under existing conditions to supply the requirements of all its customers, Luxco Wax may distribute its available supply among its customers, including affiliates, departments and divisions of Luxco Wax, on such basis as Luxco Wax may deem fair and reasonable. Luxco Wax shall have the right to omit during the period of such contingency all, or any portion of the quantity so omitted. The Purchaser hereby releases Luxco Wax from liability for any resulting incomplete fulfillment of this Agreement.
- 17.2 Force majeure notwithstanding, the Purchaser shall not be relieved from payment of any amount due in terms of this Agreement.