

GENERAL TERMS AND CONDITIONS OF SALE AND RENT

SALES

1. All of our invoices are payable in cash in Mauritius, unless otherwise agreed between the parties.
2. All the prices specified by us have already been discounted for payment in cash, unless otherwise expressly stated in the invoice.
3. All of our prices are net prices excluding VAT. All duties, charges and taxes payable upon or after delivery shall be borne by the purchaser.
4. If one or more of the factors influencing the cost price increase following execution of the contract (even if such increase results from foreseeable circumstances), we shall have the right to increase consequently the agreed price.
5. All claims shall need to be made within five days following delivery of the goods and by way of registered post. Claims made after this period of time shall not be entertained.
6. The transmission of the invoice shall be deemed acceptance of the general terms and conditions.
7. Where one or more amounts due have not been settled within eight days of a notice sent by registered post demanding payment of the sum(s) due, this shall give rise to a right to claim indemnity as follows: penalties for late payment shall be applicable on all unpaid amount in the form of interest equivalent to the basic interest rate charged by our banker in Mauritius for overdraft facilities increased by 2% with a minimum of 12%. The period for which the interest shall be payable shall commence as from the due date and shall end on the date of receipt of the payment. The collecting costs of commercial instruments (cheques, bills of exchange etc.) shall be at the expense of the client.
8. Failure to pay any invoice which is due and payable shall result in the balance on all other invoices becoming immediately due and payable even those invoices which are yet to become due and payable.
9. The purchaser shall reimburse all costs and charges resulting from the legal recovery of all sums due. In particular, in case of recovery through an Attorney-at-Law instructed by us, the purchaser shall pay to the Attorney-at-Law the 10% customary commission together with the other fees and related charges of the Attorney-at-Law, inclusive of all taxes. At no time shall the payments be suspended or be subject to any set off without our prior written approval.
10. In case of dispute, the competent courts of Mauritius shall have jurisdiction.
11. Where the purchaser fails to comply with its obligations, we shall have the right to proceed with the cancellation of the sale without prejudice to our right to claim any damages.
12. In case our trust in the solvency of the purchaser is put into question by judicial enforcement actions entered against the purchaser and/or other demonstrable events, raising doubts about the execution of the obligations incumbent upon the purchaser and/or making such execution impossible, we reserve the right to suspend all or part of the order and to require appropriate guarantees from the purchaser notwithstanding the fact that the goods may have been totally or partly delivered. If the purchaser refuses to comply with the foregoing, we reserve the right to cancel all or part of the order, all of this without prejudice to our right to claim damages.
13. The timeframes for delivery are at all times given for information purposes only and are not mandatory. A delay in delivery shall not at any time give rise to any termination of this agreement, any claim for compensation or cancellation of the order.
14. Deliveries shall at all times be effectuated at the warehouse/factory, unless otherwise expressly stated in the invoice.
15. Consignment of goods shall be at the risk of the purchaser even in case of carriage paid delivery.
16. The present terms and conditions of sale shall apply to all orders which we receive. The client shall be deemed to have accepted these terms and conditions by the mere passing of the order. Any departure from these present terms and conditions of sale even where mention of same is made in documents emanating from the client, shall not be binding upon us, unless same has been confirmed in writing by us. Even in the latter case, all the other clauses of the general terms and conditions of sale shall continue to apply.
17. Moreover, we shall only accept orders to the extent that such orders are in accordance with the credit lines authorised by our insurance company. We reserve the right to suspend deliveries and the works where we reach the limits of our authorised credit lines, or even in case of reduction or suspension of our credit lines granted.
18. The issuance and/or acceptance of bills of exchange or other negotiable instruments shall not constitute a renewal of debt nor a departure from the terms and conditions of sale.
19. Where the purchaser re-sells goods (even processed goods) which belong to us, he shall, by way of pledge, vest in us as from the date hereof all the receivables resulting from such re-sale.
20. Our commercial relationship shall at all times be governed by Mauritian law.

RENTAL

21. As stated above (please refer to article 14 of the general terms and conditions), all our deliveries shall be effected at the warehouse/factory. In case we arrange for the transport at the express request of the client, we shall charge the client additional fees on the following terms and conditions :
 - a. All of our outgoing transport of materials shall be accompanied by a shipping/packing list, to be checked by the client, without however causing any disruption to our normal course of works.
 - b. The specifications set out on the shipping/packing list shall carry probative value in case of dispute, it being understood that the client is supposed to be present at the time of unloading and to have checked the goods at such time of unloading.
 - c. All of our offers are based on the principle that the construction site is normally accessible to heavy goods vehicles, that all the obstacles have been removed and that there are no height differences which prove to be problematic, other than those specified on the request for quotation.
22. The rental is calculated on a weekly basis with a minimum duration of 1 week. The rental invoice shall be prepared at the commencement of the lease for a period CORRESPONDING TO THE QUOTATION/PO MADE/APPROVED. After that CONTRACTING PERIOD CONFIRMED BY PO, a new invoice shall be prepared based on A NEW PO and ON the EXACT number of days rental.
23. A deposit representing 6 weeks rental shall be payable by the lessee at the time of delivery of the leased object. This deposit will be refunded to the lessee at the expiry of the lease after deduction, where applicable, of all sums due by the lessee pursuant to this lease as well as the amount of all necessary repairs resulting from the damage or poor maintenance of the leased object, without such deposit being considered as being a discharge where the sums due and/or the cost of repairs exceed the said deposit. The lessee may, as an alternative to the payment of the deposit, provide us with a first demand and unconditional bank guarantee which shall be issued in accordance such terms which we would have previously approved and by a leading Mauritian bank.
24. The lease shall commence, as the case may be:
 - a. at the time where the lessee or his delegate takes delivery of the leased object at the warehouse of the lessor.
 - b. at the time where the leased object is handed over to the carrier.
25. The fact that the lessee neglects to take delivery of the leased object or fails to go fetch the same at the agreed time shall not exonerate him from complying with the time frame obligation as provided for in the lease or the time frame at least equivalent to the one as indicated by him as being the presumed duration of the lease.
26. The promises made by the lessor with respect to the date of delivery shall not be binding upon him and shall neither constitute a ground for termination of the contract nor a reason for claiming any compensation.
27. The lease shall terminate:
 - a. on the agreed date, where the lease is expressly concluded for a determinate period.
 - b. on the day the leased object is returned to the lessor's warehouse, where no delay has been expressly agreed upon.However, where no such period has been fixed for the lease, the lessor shall have the right to terminate the agreement at any time upon giving at least one week's notice by registered post. The notice period shall start to run as from the date of delivery by the post of the registered letter. The lease shall irrevocably be terminated upon the expiry of the notice period.
28. The lessee shall upon the expiry of the lease return the leased object automatically and without the need for any « mise en demeure ». As from this moment, the lessor shall have the right to recover the leased object wherever it may be found, without the need to have recourse to any tribunal. All costs relating to dismantling, loading, transport, unloading etc., shall be borne by the lessee. Every day of late restitution of the leased object shall give rise to compensation payable by the lessee which shall be at least equivalent to one week of normal rental, without prejudice to the right of the lessor to claim from the lessee additional damages.
29. The attention of the lessee is drawn to the fact that he shall never become the owner of the leased property and that the failure to return the same at the agreed time shall be punishable on account of breach of trust.
30. The client shall promptly inform us where he notes any damage caused to the material made available to him. Any negligence on his part in respect of this obligation shall render him personally liable for any damages caused to the material.
31. The following shall not be invoked by the client as being events of force majeure exempting him from his obligation to pay the rental for the relevant period of time: frost, bad weather, high water levels, lack of administrative authorisations, the isolated public holidays, holidays, etc.
32. The lessee shall at no time be authorised to use the material on another construction site or for any purpose other than that for which it is intended, save where expressly authorised by us in writing.
33. Where the lessee sub-lets or lends the leased object to third parties, whether in return for remuneration or not, he shall remain solely responsible and without any limits for the leased object.
34. The lessee shall be solely and exclusively liable for any damage, missing, loss or disappearance of the material, resulting from any cause whatsoever, notably from thefts, accidents, fire and events of force majeure. The lessee shall, by taking delivery or by going to take delivery of the leased object, be deemed to be in possession and custody of the leased object. Going to take delivery or taking delivery of the leased object shall be deemed to be irrevocable acceptance of the leased object on the part of the lessee. The lessee shall be responsible for restituting the leased object in the same state as it was at the time of delivery. However, the recovery of the leased object by the lessor shall not constitute acceptance on the part of the lessor and therefore, the restitution in itself shall not exclude the possibility for the lessor to claim damages. Goods which have disappeared or which have been damaged shall be invoiced at the gross list price applicable at the date of the notice to the lessor. No rental shall be deducted from the amount of the purchase invoice in relation to goods which have disappeared or which have been damaged.
35. The lessee shall throughout the whole duration of the lease be liable for the damages or the inconvenience which the leased object or its use may cause to third parties, even where no wrongful act has been committed.
36. The client shall be solely responsible for the supervision of the goods delivered by us throughout the duration of the lease.
37. We assume no liability resulting from any eventual traces of rust caused by rainwater.
38. We guarantee the strength of the goods which we deliver up to the maximum loads specified in our installation manual. The lessee shall have the obligation to protect the leased object against overloading and damages.
39. The lessee shall comply with all legal and regulatory provisions governing the use of the leased object. He shall solely bear all costs and risks associated with the use of the leased object, including the permits and licenses, the compulsory control and protection measures, insurance etc.
40. Payment terms, 30 days after date of issue of invoice . In no case shall any back to back payments be received.
41. In case of late payments, an interest rate of 2% shall be charged on the total amount due.
42. In case payments not received as per agreed terms and conditions, Afix reserves the right to remove the scaffolding equipment from site without prior notice and the Lessee shall allow Afix and its employees for having access to the site to ensure safe and unhampered removal of same.