

# ATG Access Ltd – Terms and Conditions – Manual Supply

## 1. DEFINITIONS

- 1.1 "the Seller" means ATG Access Ltd
- 1.2 "the Buyer" means the person, firm or company with whom this contract is made.
- 1.3 "the Contract Goods" means the goods subject of the contract between the Seller and the Buyer.
- 1.4 "the Price" means the price payable for the Contract Goods.
- 1.5 "the Site" is the property on which the Buyer has indicated the Contract Goods are to be installed.
- 1.6 "Cancellation Costs" means such costs that have been reasonably incurred by ATG Access, but as a minimum this will be 30% of the purchase order value, or in the case of non-standard Contract Goods up to 100% of the purchase order value.
- 1.7 "Hard Dig" is defined as requiring the use of mechanical equipment to excavate solid materials such as concrete, cement, asphalt and hard -core.

## 2. TERMS OF PAYMENT

- 2.1 Credit Accounts are not normally given; applications for an account must be approved by the Seller's Accounts Department. (Credit terms are fixed at 30 days), Pro-forma payments will be required before the dispatch of standard Contract Goods. Where non-standard Contract Goods have been ordered Pro-forma payments will be required prior to manufacture. For 'Pro-forma Invoicing' of non-standard Contract Goods, manufacturing will not commence until payment is received in full. Quoted lead time then applies to any delivery date from this point.
- 2.2 Save where the Seller has otherwise agreed in writing. In the case of supply and install payment is to be made in full and forthwith on completion of the installation and satisfactory commissioning of the Contract Goods confirmed by the handover of the keys, or in the case of supply only at the time of delivery of the Contract Goods.
- 2.3 The Seller reserves the right to charge Daily Interest at a rate 3% above the Base Rate of Nat West Bank Plc on all amounts overdue.
- 2.4 All title in the Contract Goods shall remain vested in the Seller until all money due to the Seller from the Buyer has been paid in full. The Buyer has no right to on sell the Contract Goods until all debts have been discharged to the Seller in full.
- 2.5 If the Buyer decides that the goods (in whole or part) are no longer required then Cancellation Costs will be incurred by the Buyer.

## 3. PRICING

- 3.1 The prices quoted by the Seller are those ruling on the date of quotation. In the event of alterations in the supply and labour costs to the Seller, the Seller may pass on such increase to the Buyer provided that the Buyer is notified in writing at least fourteen days prior to the execution of the Contract. Following such notification the Buyer may withdraw from the Contract by giving written notice within seven days of the date of notification by the Seller. In the absence of such cancellation the Buyer shall be deemed to have accepted the revised Price.
- 3.2 If any quotation by the Seller expressly states that the price is fixed for a specified period, then the Price is exempt from any increase during such period.
- 3.3 Prices are subject to correction in the event of errors or omissions.
- 3.4 Unless expressly stated otherwise, all Prices are exclusive of Value Added Tax which will be charged at the due rate applicable on the day of invoicing.
- 3.5 In the event of the Site surface being of "vibrated concrete", the Seller shall reserve the right to make a surcharge without written notice.
- 3.6 Notwithstanding any other provision of these terms and conditions the buyer shall, in addition to the Price, pay to the Seller in full and without deduction all additional costs incurred by the Seller by reason of, or arising out of:-
  - 3.6.1 any defect in the ground conditions or water presence or any unusual or adverse ground or other conditions affecting the Site.
  - 3.6.2 the carrying out of any works required to make the Site suitable for the installation of the Contract Goods.
  - 3.6.3 any failure on the part of the Buyer to comply with its obligations herein.
- 3.7 The Seller reserves the right to invoice 80% of the contract value if the buyer delays the delivery or installation of the Contract Goods.

## 4. DELIVERY

- 4.1 Any time or date specified by the Seller is given and intended as an estimate only and is not of the essence. The Buyer shall not be entitled to rescind the contract by reason of any delay in the delivery of the Contract Goods, nor shall the Seller incur any liability for loss suffered directly or indirectly as a result of failure to make delivery on the specified date.

- 4.2 The Buyer shall ensure the provision of full and adequate access to the place of delivery, and all other facilities and services necessary to enable the Seller to make delivery and install the Contract Goods in accordance with the Buyers requirements.
- 4.3 The Buyer shall notify the Seller in writing of any loss or damage to the Contract Goods (supply only contracts) within such time as will enable the Seller to comply with the carrier's terms relating to loss or damage, or within 3 days of delivery, whichever is the sooner. In the absence of such notice the Buyer shall be deemed to have accepted the Contract Goods.

## 5. BUYERS OBLIGATION REGARDING THE SITE

- 5.1 The Buyer hereby warrants to the Seller that the Buyer is lawfully entitled to install the Contract Goods, and that all the necessary planning permission, licenses and consents have been obtained, and that the installation of the Contract Goods will not contravene any Statutory provisions or infringe any third party rights and in particular any Highways Legislation.
- 5.2 The Seller shall advise the Buyer that upon receipt of order any services will be carried out in accordance with all relevant Health, Safety & Welfare Regulations. (i.e. Risk Assessments; method statements; electrical underground service drawings). However notwithstanding the above, the Seller shall not be responsible for any loss, costs, claims, demands, damages, liabilities, or proceedings directly or indirectly arising through the above procedures.
- 5.3 It is the Buyers responsibility to ensure that the Site is suitable in all respects for the installation of the Contract Goods. Post installation the buyer shall ensure that access is not granted through an installation location for a period of 48 hours to allow the installation to set. The Seller shall not be responsible for any loss, costs, claims, demands, damages, liabilities or proceedings by reason of the Site not being suitable and adequate for that purpose.
- 5.4 It is the Buyers responsibility to provide a suitable site or skip for the disposal of waste material following excavation. This responsibility can be transferred to the Seller at a cost of £160 plus VAT per skip.

## 6. PROPER LAW

- 6.1 The formation, interpretation and operation of this contract shall be governed by English Law and the Buyer submits to the non-exclusive jurisdiction of the English Courts.

## 7. SELLERS WARRANTY

- 7.1 If within a period of 12 months of commissioning the Contract Goods the same require repair or replacement due solely to a fault in the Contract Goods or on account of faulty installation by the Seller, the Seller shall at its own cost repair or replace the Contract Goods provided that:-
    - 7.1.1 the Sellers liability shall be limited to the repair or replacement of the Contract Goods and not further or otherwise.
    - 7.1.2 for the avoidance of doubt the Seller will not be liable for any reason for any repair or replacement made necessary as a result directly or indirectly of any abuse of the Contract Goods or defect in the Site, or as a result of faulty or incorrect installation by an agent or Contractor of the Buyer not approved by the Seller for the installation of the Contract Goods.
    - 7.1.3 The Seller shall not be liable in any way whatsoever for any loss, damage or injury caused by accident or by any third party whether trespassers or otherwise.
  - 7.2 The Contract Goods are designed to be a deterrent to unauthorised access but the Seller gives no warranty that the installation of the Contract Goods will prevent unauthorised access and save only to the extent that liability cannot lawfully be excluded the Seller shall not be liable for any loss or damage whatsoever arising out of or as a result of unauthorised access to the Buyers property or unauthorised interference with the Contract Goods.
  - 7.3 Damage may occur as a result of abnormal use or under abnormal conditions, please see care of use instructions. ATG Access cannot be liable for improper use of the product.
  - 7.4 The telescopic bollards are installed with provision for a natural soak away; the success of this is dependant on the natural ground conditions. ATG Access cannot guarantee that the bollards will not retain water.
- ## 8. LIMITATION ON DAMAGE
- 8.1 Save as provided in 7.1 the Seller, its agents or subcontractors shall have no liability under the contract for any personal injury, death, loss or damage of any kind whatsoever whether consequential or otherwise including, but not limited to, loss of profits and so far as the law permits the Seller hereby excludes all conditions, warranties and stipulations, express or implied, statutory, customary or otherwise which, but for such exclusions might subsist in the Buyers favour.
  - 8.2 Neither the Seller, it's servants, agents or subcontractors shall be liable for any loss or damage of any kind whatsoever (except arising from death or personal injury) whether consequential or otherwise caused directly or indirectly by any negligence on the Seller's part or on the part of any of the Seller's servants, agents or subcontractors in connection with or arising out of the manufacture, supply or installation of the Contract Goods.