

General Sales Terms and Conditions ABS All Brake Systems bv

of – 10 March 2023 --

(filed with the Chamber of Commerce in Utrecht under number 30131523)

1. General

- 1.1 These terms and conditions are applicable to all offers of ABS and to any and all sale and purchase, delivery or any other type of agreement concluded or to be concluded with ABS, unless expressly indicated otherwise in writing. ABS' is hereby defined as: A.B.S. All Brake Systems B.V. and its subsidiaries in and outside of the Netherlands (inter alia: A.B.S. Hungary Kft. en A.B.S. Poland SP. z o.o.).
- 1.2 By acceptance of the offers of ABS or by awarding an assignment to ABS the Client accepts these terms and conditions upon simultaneous exclusion of the applicability of other general terms and conditions, including possible general terms and conditions of the Client.

2. Conclusion of agreements

- 2.1 Agreements and orders only come into being after written confirmation of the same by ABS or by implementation of the assignment by ABS. Written confirmation is also understood to include the implementation of an order or the despatch of an invoice. This condition of written confirmation is also applicable to agreements, orders, assignments, terms and conditions and stipulations accepted by representatives, agents, intermediaries or employees of ABS. ABS shall at any time and at its sole discretion be entitled not to accept an order.
- 2.2 Deviations from and supplements to existing agreements, assignments and orders only have binding effect on ABS if they have been confirmed by ABS in writing.
- 2.3 If a supplementary written agreement has been concluded by and between ABS and the Client and the content of that agreement deviates from one or more provisions laid down in these terms and conditions, the content laid down in the agreement shall prevail over these provisions.

3. Offers, catalogues and special orders

- 3.1 Images, specifications, drawings, dimension and weight indications and the like provided to the Client by ABS in the form of catalogues, circular letters, digital files or otherwise are provided for information and orientation purposes and do not have binding effect on ABS. This kind of information frequently originates from or is based on information of the manufacturers, designers, distributors or resellers of the goods offered by ABS. Even though ABS pursues to provide images, specifications, drawings, dimension and weight indications that are as accurate as possible they cannot be held to provide an exact depiction of that which is offered by ABS. Possible deviations shall therefore not entitle the Client to refuse receipt or payment of the goods or to claim any form of compensation.
- 3.2 Despatch or availability of catalogues, price lists, images, specifications, drawings, dimension and weight indications and the like shall take place without engagement and shall not oblige ABS to deliver. The information remains the property of ABS.

- 3.3 Orders for goods placed with ABS by the Client must be placed in accordance with the procedures then applicable at ABS (reference is made to www.absallbrakesystems.com). ABS is entitled to change the procedures.
- 3.4 With regard to goods that are not carried by ABS or are sold out ABS can at the request of the Client order these goods, where possible. In that case the Client commits to unconditionally purchase these goods. ABS is entitled to charge possibly higher costs for these orders to the Client. These kinds of goods have been excluded from the right to return goods.

4. Prices

- 4.1 ABS delivers on the basis of the prices established by ABS as applicable on the day that the goods are ordered. The prices and quotations as included in the catalogues, price lists, circular letters, advertisements and the like of ABS are for information purposes and do not have binding effect on ABS.
- 4.2 The possible discount stipulated between the Client and ABS for the relevant ordered goods is displayed on the invoice.
- 4.3 ABS is entitled to in an equitable fashion pass on possible price changes resulting from changes in or surcharges on freight rates, wages, currency exchange rates and the like, or changes in existing or new taxes, fees, duties or other rights, as applicable to the delivery, to the Client.
- 4.4 All prices and quotations of ABS are excluding the applicable turnover tax, freight rates, duties, surcharges and the like, unless expressly indicated otherwise.

5. Delivery and delivery date

- 5.1 The ICC Incoterms applicable on the day of delivery are applicable to all deliveries by ABS. The goods are delivered Ex Works (EXW) in IJsselstein, the Netherlands. The date on the packing slip of ABS is considered to be the date of delivery.
- 5.2 The transport of the goods is at the risk of the Client.
- 5.3 ABS is at all times entitled to deliver the ordered goods C.O.D. (cash on delivery) or to desire payment of the invoice prior to the despatch. ABS is entitled to perform partial deliveries. If the partial delivery takes place at the request of the Client, ABS shall be entitled to charge the possibly higher despatch costs to the Client.
- 5.4 ABS shall make every effort to deliver on the delivery date indicated by ABS or on the stipulated delivery date. These delivery dates are indicative and never constitute a fatal deadline. If the delivery date of a product confirmed by ABS in writing has expired by more than one month then the Client shall be entitled to cancel the order of the relevant product. If the delivery date is exceeded ABS shall not be liable for the consequences thereof and the Client shall not be entitled to refuse the receipt or the payment of the goods, nor to desire any discount, claim dissolution of the agreements or orders or to suspend or not comply with any obligation vis-à-vis ABS. The Client indemnifies ABS against possible claims of third parties resulting from an overstepping of the delivery date.

- 5.5 ABS is entitled to postpone, suspend or cancel the delivery in case of payment arrears of the Client or, at the discretion of ABS, the risk of the same.

6. Invoicing and payment

- 6.1 In case of delivery in the Netherlands a payment term of 8 days after delivery is applicable provided the Client gave its consent to payment by means of a direct debit by ABS. In case of delivery in Europe to a new client, the new client must pay at least the first three orders by payment in advance. If the Client fully and timely complied with its obligations ABS can decide to subsequently deliver on the basis of a payment term of 30 days after delivery. In all instances is ABS, at its sole discretion, authorised to desire payment in advance. The date on the invoice of ABS is considered to be the date of delivery.
- 6.2 Payment must take place in the manner, in the currency and to the bank account indicated by ABS. The costs of payment, including but not limited to bank costs, fees, taxes, foreign-exchange risk or (official) duties, are at the expense of the Client.
- 6.3 Possible complaints as a result of invoices must be communicated to ABS by the Client in writing within 8 days after the date of the invoice. A complaint shall not entitle the Client not to comply with or suspend its obligations, including its payment obligation, or to rely on settlement with other claims which the Client has or believes to have vis-à-vis ABS.
- 6.4 If payment is not, untimely or improperly received by ABS then the Client is, without any further communication or notice of default being required, held to pay an interest of 0.06% per day over the outstanding amounts to ABS. ABS shall furthermore be entitled to charge all judicial and extrajudicial collection costs to the Client. The extrajudicial costs amount to at least 15% of the claimed amount including turnover tax, with a minimum of EUR 500.00 per event.
- 6.5 The payments of the Client received by ABS are always deemed to have been effectuated to settle the oldest outstanding invoices and other claims ABS has vis-à-vis the Client. Decisive in this context is the date of the invoices of ABS or the date on which other claims, for whatever reason, of ABS vis-à-vis the Client came into being.
- 6.6 Settlement or suspension by the Client of the payable invoiced amounts with claims which the Client has or believes to have vis-à-vis ABS, for whatever reason, is not allowed.
- 6.7 In case of payment by means of direct debit the Client beforehand irrevocably authorises ABS to deduct the amounts payable by the Client from the bank account(s) indicated by the Client. The Client shall ensure that sufficient funds in the correct currency are available on his bank account at the time of the direct debit.

7. Return shipments

- 7.1 Return shipments of goods by the Client to ABS must take place according to the procedures then applicable at ABS. ABS cannot accept return shipments for which ABS did not grant its prior approval. Goods that were delivered to the Client by ABS in pursuance of article 3.4 of these terms and conditions have been excluded from return shipments.
- 7.2 Erroneously delivered goods must be returned within 14 days after the date of the invoice, stating the packing slip number. The reasonable costs associated with the return shipment of erroneously delivered goods are at the expense of ABS. In case of a deviation from the procedure for return shipments, ABS shall be entitled to charge a deduction of 15% on account of processing costs.

- 7.3 Return shipments of goods, other than as a result of an erroneous delivery, are only possible if ABS granted its prior approval in writing. To this end the Client shall present a specification of the goods to be returned, stating the packing slip and invoice number. ABS is free to assess as to whether it shall take back the returned goods, and if so which. A possible credit entry shall take place upon deduction of at least 25% on account of logistical processing costs. If (a part of) the goods to be returned can after receipt by ABS not be used or are (is) damaged, incomplete or otherwise appear (appears) to be less marketable then ABS shall be entitled to yet refuse these goods and credit the same accordingly. The costs of the return shipment are at the expense of the Client.
- 7.4 A credit entry as a result of a return shipment shall take place on the basis of the prices as specified on the order confirmation of the return order by ABS and, where applicable, upon deduction of the percentages within the meaning of article 7. ABS can at its sole discretion proceed with repayment of payable amounts or to set the same off against existing or future invoices of the Client.
- 7.5 ABS can designate specific goods in respect of which a deposit scheme is applicable. The Client can return these goods to ABS upon reimbursement of the deposit value to be indicated by ABS. Upon receipt of the goods ABS shall determine as to whether they comply with the physical state in which the goods must be in order to qualify for the deposit. The deposit scheme of ABS, as applicable at the time of the return shipment of the products by the Client, is applicable to this. ABS is entitled to change the deposit scheme.

8. Warranty

- 8.1 If and to the extent that a warranty was given to the Client by ABS with regard to the delivered goods then the said warranty shall never extend further than the warranty given by the manufacturer of the goods.
- 8.2 During the period that the Client fails to comply with an obligation vis-à-vis ABS the Client is not entitled to rely on any warranty provisions.
- 8.3 The warranty obligations of ABS vis-à-vis the Client on account of defects in the goods delivered by ABS expire if the Client does not inform ABS accordingly in writing within fourteen days after the occurrence of the defect, or within fourteen days after the date when the defect could within reason have been discovered, and ABS was offered the possibility by the Client to investigate the same. The Client can only claim a warranty with regard to goods delivered by ABS to the extent that ABS or the supplier of ABS warrants the relevant goods. After expiry of six months after delivery of the goods any and all warranty obligation of ABS vis-à-vis the Client expires.
- 8.4 The Client shall offer ABS the possibility of, whether or not by returning the good delivered by ABS, independently forming an opinion about the (alleged) defect. Failing to offer ABS this opportunity, injudicious use, incorrect or incomplete assembly of the good and regular wear and tear have been excluded from the warranty.
- 8.5 A difference of opinion between the Client and ABS about warranty claims and obligations shall not relieve the Client from its obligations by virtue of this Agreement or orders. If the Client rightly relies on a warranty according to these general terms and conditions then ABS shall, at its sole discretion, provide for either gratuitous replacement of the defective goods or repayment of the purchase price of the relevant goods.

- 8.6 The Client is held to check the quantity and the exterior state of the delivered goods immediately upon delivery. If the Client does not submit a written complaint to ABS within five working days after receipt of the goods then the quantities specified on the packing slip shall have binding effect and it shall furthermore no longer be possible to lodge a complaint with regard to externally visible damages.
- 8.7 Complaints ruled justified by ABS shall not entitle the Client to refuse the (whole) delivery or to suspend payment of the invoices.

9. Liability

- 9.1 The liability of ABS for any and all direct costs and damages in any way whatsoever related to or caused by an error or shortcoming in the implementation of the Agreement shall at all times be limited to the net invoice amount with regard to the contract and/or the relevant shipment of delivered goods that the (alleged) damages derive from.
- 9.2 ABS shall never be liable for any indirect costs and indirect damages in any way whatsoever related to or caused by an error or shortcoming in the implementation of the Agreement.
- 9.3 The Client indemnifies ABS against any and all claims of third parties for compensation for damages or otherwise that are directly or indirectly related to the implementation of the Agreement between ABS and the Client.
- 9.4 ABS shall not be liable for any damages that may result from (but not limited to):
- a. Force majeure;
 - b. Acts or negligence of the Client, its subordinates or persons who were employed by or on behalf of the same;
 - c. Negligence of the Client in the maintenance of the delivered goods;
 - d. Incorrect assembly by the Client;
 - e. Damages to the delivered goods as a result of external mechanical or biological effects;
 - f. Normal wear and tear of the delivered goods;
 - g. Any other external effects.
- 9.5 ABS shall never be liable for any occurring consequential damages, barring in case of intent or intentional recklessness, including (but not limited to) potential loss of income or profit, damages due to stagnation of or delay in business operations, damages due to loss of production, loss of working hours and/or labour costs incurred in vain, additional costs of purchase elsewhere, damages due to reconstruction of lost information, lost savings or agreements, discounts or penalties of the Client.

10. Reservation of title

- 10.1 The title of the goods delivered by ABS shall only transfer to the Client if and to the extent that the Client complied with all that which the same is due to ABS in pursuance of any agreement whatsoever, including possible interests and costs.

- 10.2 The Client is not allowed to give the goods delivered by ABS to third parties as a (non-possessory) pledge or to lend, give the same on loan, in consignment or for safekeeping or to otherwise factually or legally cede or give the same to or use the same as security for third parties for any reason whatsoever before all claims of ABS vis-à-vis the Client pursuant to any agreement whatsoever have been met. The foregoing does not affect the right of the Client to transfer the goods within the framework of its normal business operations.
- 10.3 If the Client sold and transferred goods to a third party before the title transferred to the Client, this third party shall merely become holder of the goods. The Client is obliged to demonstrably make a reservation in this sense upon the sale and transfer to the third party. On demand the Client provides ABS, if so desired, with documentary proof of such reservation. The Client hereby already assigns the possible claims acquired by the Client upon the sale and transfer to the third party to ABS. ABS hereby already accepts this assignment.
- 10.4 If the Client processes, assembles or otherwise makes use of the goods delivered by ABS as a result of which the ownership rights of ABS can be lost due to specification or otherwise, the Client hereby already, as the occasion arises, gives the main good to ABS as a non-possessory pledge in order to secure all obligations of the Client vis-à-vis ABS for any reason whatsoever. This kind of non-possessory pledge or similar right is hereby, as the occasion arises, already accepted by ABS. The Client shall lend any and all cooperation to ABS as required in connection with the exercise of this right by ABS vis-à-vis anybody.
- 10.5 ABS is entitled to desire alternative and/or supplemental securities from the Client, such in the form and with the content to be determined by ABS. The Client commits to forthwith provide these kinds of securities on demand and at its own expense.

11. Other provisions

- 11.1 The term of the agreement is established by ABS and the Client in writing. If ABS and the Client have not stipulated a term then a term of twelve (12) months is applicable. In all instances can ABS or the Client give notice of termination of the agreement in consideration of a notice period of three (3) months prior to expiry of the current term. If (timely) notice of termination did not take place then the agreement is each time by operation of law renewed for a term of twelve (12) months. If at any time the Client gives notice of termination, a penalty possibly stipulated in the agreement can be charged by ABS.
- 11.2 If at any moment of time any provision from the Agreement and these general terms and conditions would not (no longer) be valid then the Client and ABS shall consult with each other about a new provision which best approaches the objective and the (economic) scope of the original stipulation.
- 11.3 If ABS, as a result of conditions that cannot be blamed on the same, is within reason during a period of more than one week unable to comply with its obligations by virtue of the Agreement and the agreements and/or orders originating there from, ABS shall be entitled to, without judicial intervention, dissolve the Agreement, the agreements and/or the orders, either in whole or in part, at its sole discretion, without being held to pay compensation. Conditions within the meaning of this article are, among other things, industrial action, occupation, weather conditions, natural disasters, official regulations and import or export restrictions as a result of which the transport and the delivery is affected either directly or indirectly.

- 11.4 In the instances that the Client is in default, is placed under guardianship or any good belonging to the same is put under administration, files for or is granted personal debt restructuring, is declared insolvent
/ bankrupt or a petition thereto is filed, discontinues or suspends the performance of its business, its reputation or that of ABS is under discussion, the dominant control in the same changes either directly or indirectly or, if the Client is a legal person, it is resolved to liquidate and/or dissolve the Client, ABS shall be authorised to terminate any and all agreements and/or orders with immediate effect and without judicial intervention and to reclaim its properties, without prejudice to the right of ABS to claim compensation. At the moment of termination all claims of ABS vis-à-vis the Client shall immediately fall due.
- 11.5 The Client is not allowed to, either in whole or in part, transfer the rights and obligations by virtue of the Agreement, and the thereto related or there from originating agreements and/or orders, to a third party without the prior approval in writing of ABS. If ABS grants its approval it shall be authorised to impose further conditions on this transfer.
- 11.6 ABS is entitled to from time to time supplement and adjust these general terms and conditions at its sole discretion. A new version of the general terms and conditions shall replace the then applicable general terms and conditions of ABS. ABS shall send the new general terms and conditions to the Client in consideration of an entry into force period of at least one month.

12. Applicable law and competent court

- 12.1 Dutch law is exclusively applicable to this Agreement and the agreements originating there from. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is expressly excluded.
- 12.2 Disputes deriving from or connected with this Agreement and the agreements or orders connected there with or originating there from are exclusively brought to the cognisance of the competent Dutch court in Utrecht, without prejudice to the right of ABS to call upon the competent court in the jurisdiction where the Client resides.

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