



TERMS AND CONDITIONS OF SALE OF ABBT NETHERLANDS B.V. (dba. ARNOTT EUROPE), having its registered office in Amsterdam and listed in the Commercial Register of the Dutch Chamber of Commerce under number 58137440

1. GENERAL PROVISIONS

- 1.1 These terms and conditions of sale of ABBT Netherlands B.V. ("**Terms and Conditions**") apply to all orders, offers, order confirmations and agreements relating to the sale and delivery of the products ("the **Products**") from or on behalf of **ABBT NETHERLANDS B.V. ("ABBT")** to buyer ("**the Buyer**").
- 1.2 By contracting on the basis of the Terms and Conditions, the Buyer agrees to the applicability thereof in respect of all future dealings, even if this is not explicitly stated.
- 1.3 ABBT explicitly rejects the applicability of any general terms and conditions of the Buyer.
- 1.4 ABBT reserves the right to amend the Terms and Conditions at any time. ABBT will notify the Buyer of any such amendments by sending the amended Terms and Conditions to the Buyer. The amended Terms and Conditions will take effect on the date of notification of these amendments. The amended Terms and Conditions shall apply to all transactions between the Buyer and ABBT after the date of such notification.

2. QUOTATIONS, ORDERS AND CONFIRMATION

- 2.1 The Buyer can place an order by telephone, by fax, by e-mail or through the ABBT EDI-system. ABBT is allowed to accept or reject orders of the Buyer at its sole discretion. An agreement will be deemed to have been concluded after ABBT has confirmed an order placed by the Buyer in writing or has commenced the execution of that order.
- 2.2 Any oral acceptance will bind ABBT only after and to the extent that ABBT has confirmed it in writing. All offers of ABBT, if and however they are made, are revocable and without obligation.
- 2.3 In the event that an agreement is concluded by e-mail, by fax or in the event that an agreement is concluded through another means of electronic communication (such as the ABBT EDI-system), such e-mail message or statement made through another means of electronic communication is deemed to be equal to a written statement and the principle will apply.
- 2.4 Information and advice from ABBT are of a general nature and non-committal. The Buyer itself is responsible for the implementation of advice of ABBT.

3. DELIVERY AND ACCEPTANCE

- 3.1 Delivery of the Products shall take place according to the Incoterm Ex Works (Incoterms 2020) Waalwijk.
- 3.2 Any times or dates for delivery or shipment by ABBT are estimates and shall not be of the essence. The Buyer will be obliged to take delivery of the Products upon ABBT's first request. If the Buyer fails to accept delivery of the Products upon ABBT's first request, ABBT is entitled to (i) store and redeliver the Products at the expense and risk of the Buyer and to claim fulfilment of the Agreement of the Buyer or (ii) to dissolve (*ontbinden*) the Agreement in whole or in part. If ABBT stores the Products, ABBT is not obliged to insure the Products.
- 3.3 In the event of late delivery, ABBT must be declared to be in default in writing by the Buyer. After that, ABBT will be granted a reasonable term of at least fourteen (14) working days as of the date of the receipt of notification to fulfil its obligations. If such extended term is exceeded, the Buyer shall be entitled to dissolve the Agreement or part of the Agreement only with respect to the Products not delivered. Delay in delivery of the Products shall not relieve the Buyer of its obligation to accept delivery thereof and to pay the rate specified in the Agreement for the quantity of Products delivered by ABBT. Any delay in delivery shall never entitle the Buyer to compensation of damages. ABBT is entitled to deliver the Products sold piecemeal and to invoice separately.

4. PRICES

- 4.1 Prices of the Products are in euro's and apply to delivery EXW (Incoterms 2020) and include standard packaging and do not include VAT or any other similar applicable taxes, import and export duties, levies or charges in any jurisdiction levied in relation to the Products or the delivery thereof ("Taxes"). The amount of any Taxes levied in connection with the sale of the Products to the Buyer shall be for the Buyer's account and shall either be added to each invoice or separately invoiced by ABBT to the Buyer.
- 4.2 ABBT is entitled to adjust prices agreed upon for Products still to be delivered. ABBT shall notify the Buyer of such increase in writing. The increased price shall apply to all future deliveries.

5. PAYMENT

- 5.1 ABBT is entitled to demand prepayment by the Buyer. Payment shall be received by ABBT within thirty (30) days after invoice date, unless a shorter payment term is mentioned on the invoice. In that event the shorter term on the invoice shall prevail. All payments shall be made without any discounts, deduction on account of any Taxes and without suspensions or set-off or other counterclaims. Objections against the amount of an invoice do not suspend the payment obligation of the Buyer. All payments must be made in euros.

- 5.2 The payment terms are strict time limits. The Buyer is in default without notification in the event of late payment.
- 5.3 In the event of late payment, ABBT may, without prejudice to any other rights of ABBT, charge the statutory commercial interest (article 6:119a Dutch Civil Code) over the outstanding amount from the due date computed until all outstanding amounts are paid in full. All judicial and extrajudicial costs and expenses incurred by ABBT with respect to the collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and the costs which cannot be liquidated through a court ruling and other expenses of litigation) shall be for the Buyer's account. The extrajudicial costs are set at at least fifteen percent (15%) of the principal, subject to a minimum of € 500, exclusive of VAT. At our discretion, the Buyer may also be charged with the actual expenses. The judicial costs are set at the costs effectively incurred by ABBT.
- 5.4 Every payment by the Buyer shall in the first place serve to pay the judicial and extrajudicial costs and the accrued interest and shall afterwards be deducted from the oldest outstanding claim regardless of any advice to the contrary from the Buyer.
- 5.5 Any complaint with respect to the invoice must be notified to ABBT in writing within 10 days after the date of invoice. Thereafter, the Buyer shall be deemed to have approved the invoice.
- 5.6 The claim for payment shall become due immediately, if:
- (a) the Buyer is declared bankrupt or applies for suspension of payment;
 - (b) Products or claims of the Buyer are seized;
 - (c) the Buyer (company) is dissolved or liquidated; and/or
 - (d) the Buyer fails to fulfil one or more obligations, regardless whether they arise from an agreement or the law.
- 5.7 ABBT is entitled to require the Buyer to effect advance payment of an amount to be determined at ABBT's discretion before it commences the execution of an order or commission.

6. INFORMATION

- 6.1 Any and all images and specifications of the Products in catalogues, price lists, advertisements, etc. must be deemed to be representations by approximation only, unless ABBT has explicitly indicated the contrary in writing with regard to a specific delivery.

7. TRANSFER OF RISK AND PROPERTY AND RETENTION OF TITLE

- 7.1 The risk of the Products shall pass to the Buyer according to the applicable Incoterm (see Article 4.1 of the Terms and Conditions).
- 7.2 The title to the Products delivered by ABBT and located at or under the control of the Buyer, or under its holder, shall not pass to the Buyer and full legal and beneficial ownership of the Products shall remain with ABBT unless and until the Buyer has paid all claims regarding remuneration – which include not only the purchase price but also the claims ABBT holds on it due to shortcoming in fulfilling the Agreement, also including ABBT’s claims on account of fines, interest and costs – for the Products delivered or to be delivered by ABBT to the Buyer pursuant to the order.
- 7.3 The Buyer is obliged to store the Products delivered under retention of title with due care, ensuring that they are recognizable as the property of ABBT. In addition, the Buyer is obliged to insure such Products against, inter alia, fire and water damage and theft. The Buyer will pledge to ABBT any claims it has pursuant to such insurance policies upon ABBT’s first request, as additional security with respect to ABBT’s claims against the Buyer.
- 7.4 In the event that the Buyer fails in the performance of any obligation vis-à-vis ABBT, or in the event that ABBT has reason to fear that the Buyer will fail in the performance of its obligations, ABBT will be entitled to recover the Products delivered under retention of title or to have such recovered, even when the Products have to be detached. The Buyer will cooperate accordingly. The Buyer will bear the costs of recovery, without prejudice to ABBT’s right to further damages.
- 7.5 As long as the Buyer has not settled the aforementioned claims, it does not have the right to process or sell the Products delivered, nor may these be encumbered or alienated, neither by way of a lien (whether or not including possession) nor by encumbering it in any other matter. This alienation, pawning, and encumbering prohibition has an emphatic effect at the level of property rights. It is, therefore, not possible to transfer the Products in property, nor to pawn them or to otherwise encumber them.
- 7.6 The Buyer is liable towards ABBT for all loss and/or damage occurring to the Products before the transfer of property has taken place. Rescission and recovery leave ABBT’s rights to compensation of damages and loss unaffected. In these cases, every claim by ABBT on the Buyer will be directly and fully payable.

8. STOCK RETURN

- 8.1 No general right to stock return exists. Such rights can be agreed upon between ABBT and the Buyer. Condition to such a right is that the life of the Products does not exceed a lifespan of 18 months after delivery of the Product to the Buyer.

9. INSTALLATION

- 9.1 Installation of the Products shall take place in accordance with all (oral and/or written) instructions given by ABBT, which instructions are amongst others included in the manuals and videos. It is of utmost importance that the Products are processed/installed by a professional party that is trained to do so. In the event there are no (oral and/or written) instructions given by ABBT, the Products shall be installed according to the vehicle manufacturer's specifications.
- 9.2 If and to the extent the Buyer processes/installs the Products, the Buyer shall take the obligations as set out under article 9.1 into account.
- 9.3 If and to the extent the Buyer (re)sells the Products to a third party, the Buyer shall impose the arrangements following from article 9.1 on that third party (its buyer) by means of a perpetual clause, containing the obligation for the third party to in turn impose this perpetual clause and the obligations attached thereto on its buyer.
- 9.4 If the Buyer or its buyer does not comply with the obligations as set out in article 9.3 and somewhere along the chain occurs damage, then the Buyer shall indemnify ABBT for such damages.

10. FORCE MAJEURE

- 10.1 ABBT shall not be liable in any way for any damage, loss, costs or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the Buyer caused by any circumstance beyond ABBT's reasonable control, including, without limitation, acts of God, laws and regulations, administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labor disturbances, difficulty in obtaining necessary labor or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in delivery or defects in Products supplied by suppliers or subcontractors ("**Force Majeure**"). In the event of Force Majeure, ABBT is entitled to either dissolve the Agreement in whole or in part, without any obligation to pay damages that may arise as a result thereof or to suspend its obligations.

10.2 In the event that ABBT has already partially fulfilled its obligations upon the occurrence of an event of Force Majeure, or is only able to fulfil its obligations in part, ABBT will be entitled to separately invoice the part already supplied or the part that can still be supplied and the Buyer will be obliged to pay that invoice as if it pertained to a separate agreement.

11. COMPLAINTS AND INSPECTION

11.1 Upon delivery the Products must be checked by or for the Buyer with respect to quantity, visible defects and other defects that can be discovered without far reaching examination. Once accepted, the Products are deemed to comply with the Agreement, unless the Products turn out to have an invisible defect that cannot easily be detected.

11.2 Complaints about visible defects to the Products must be reported to ABBT in writing within two working days of receipt of the Products, accurately stating the defect, failing which the Buyer loses any right to claim performance of the Agreement or substitute compensation, any right to rely on any defect, and any resulting claim.

11.3 The Buyer must report defects not visible upon delivery in writing within 2 working days after their discovery or after the time that the Buyer could reasonably have discovered them, accurately stating the defect, failing which the Buyer loses any right to invoke a possible defect and to assert any resulting claim.

11.4 Slight deviations in quality, color, size, weight, finish, design, normal wear and tear, cosmetic damages such as scratches, nicks and dents, and the like considered acceptable in the trade or technically unavoidable shall not form a basis for complaints.

11.5 As part the Buyer's duty to inspect the Products, the Buyer must in any case extensively and thoroughly inspect the Products before (re)selling or processing them in order to ensure the conformity of the Products. Upon discovery of any defect, the Buyer may not further (re)sell or process the defective Products. If any defects are nevertheless only discovered during processing, the work, if necessary to prevent (further) damages, must be stopped immediately and the unprocessed and unopened original packaging secured. A complaint about a defect that is only discovered at or after (re)selling or processing can only lead to a claim against ABBT if the Buyer proves that it was impossible to discover the defect prior to or at the time of (re)selling or processing.

- 11.6 ABBT has the right to require the Buyer to return to ABBT, the Products delivered to the Buyer – in respect of which the Buyer has complained properly and in a timely manner – or a representative portion thereof to be determined by ABBT, in order for ABBT to be able to verify the accuracy of the complaint expressed. ABBT may choose to investigate the complaint at the place where the Buyer has stored the shipment or the relevant Products have been processed, respectively, in which case the Buyer must cooperate. Return shipments shall solely be accepted by ABBT if they are made at its request or after it has given its prior consent under communication of a return number. The costs of return shipment and storage – if the return is due to a complaint – will be advanced by the Buyer. ABBT will refund the costs to the Buyer if it is established that there has been an attributable failure on the part of ABBT.
- 11.7 If it appears that any complaint has been made in error and ABBT has delivered Products in connection therewith, ABBT shall be entitled to charge the Buyer for the Products delivered at the prices normally applicable at ABBT.
- 11.8 Any defects concerning a part of the Products delivered shall only entitle the Buyer to reject or refuse the defective Products.
- 11.9 Any (complaints about) defects and damage(s) regarding the delivered Products shall not affect the obligation of payment of the Buyer. Therefore, the Buyer may not invoke suspension of its obligation of payment in case of a(n) (alleged) defect. Nor is the Buyer in any event entitled to set-off.
- 11.10 All claims, from whatever nature, of the Buyer towards ABBT shall lapse in any event one year after delivery of the Products.

12. REMEDIES

- 12.1 In the event of a default of ABBT, ABBT shall have the right to, at its own expense and at its option:
- (a) deliver the missing;
 - (b) repair the delivered Product(s);
 - (c) replace the defective Product(s) with the same non-faulty Product from ABBT, or, at ABBT's discretion, a Product that is deemed equivalent by ABBT to the defective Product(s);
 - (d) payment of an amount equal to the net invoice value paid by the Buyer to ABBT for the Product(s) in question by issuing a credit note, with the Products to be returned to ABBT at its own request and at ABBT's expense; or
 - (e) price reduction in proportion to the degree of deviation from what was agreed, if (i) there is a defect in the delivered Product(s) and (ii) the Buyer has complied with the requirements set out in Article 11 of the Terms and Conditions.

- 12.2 If ABBT opts for a replacement, then as a part of this replacement, the Buyer shall offer the Products to be replaced, if necessary, after its disassembly, free of charge to ABBT at a place to be determined by ABBT. All costs beyond the mere obligation to provide a replacement Product itself, including but not limited to transport, travel and accommodation costs as well as costs of disassembly and assembly, shall be borne by the Buyer. Insofar as the aforementioned costs are charged by third parties to ABBT and/or incurred by ABBT, such as costs at the prices and rates charged by ABBT and/or applicable at ABBT shall be passed on to and charged to the Buyer.
- 12.3 The remedies included in Article 12.1 Terms and Conditions are the only remedies the Buyer can claim from ABBT in the event of a defect/shortcoming of ABBT. ABBT is not obliged to pay any (other) compensation (of loss/damages) to the Buyer.
- 12.4 Any right to invoke the remedies set out in this Article shall lapse if the Products have been transported, handled, used, processed, or stored improperly or contrary to the instructions given by or on behalf of ABBT or if the usual measures/regulations have not been observed, as well as if the Buyer fails to perform its obligations under the Agreement in a prompt or proper manner. The burden of proof of a justified claim under this Article lies with the Buyer. In this context, the Buyer must also prove that the defect discovered by the Buyer already existed at the time of delivery of the Product(s).

13. LIABILITY

- 13.1 In case of a defect to the Products, ABBT's liability shall be limited to the obligation to provide a remedy as specified in Article 12 Terms and Conditions.
- 13.2 ABBT shall not be liable – irrespective of the legal basis of the Buyer's claim – for indirect damages, being any other type of damage than damage to the Products themselves, thus including any kind of special, incidental, consequential or punitive damage or loss, cost or expenses, including without limitation, damage based upon lost goodwill, lost sales or profit, lost savings, delay in delivery, work stoppage, production failure, impairment of other Products or based on any other cause, and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, right of recourse, negligence, intellectual property right infringement, product liability or otherwise.
- 13.3 If ABBT shall be liable, despite the limitations included in article 13.1 and 13.2 Terms and Conditions, its liability shall at times be limited to the amount to be disbursed by the insurance company in the underlying case. If the damages are not disbursed by the insurance company, ABBT's liability shall be limited per occurrence (whereby an interrelated series of events counts as a single occurrence) to the sales value of the Product(s) which have/has caused the liability and in any case with a maximum of € 10.000,-.

- 13.4 The Buyer indemnifies ABBT against any claims of third parties for compensation of damages and/or loss suffered for which the liability of ABBT in relation to the Buyer which is excluded or limited in the (general sales) agreement concluded between ABBT and the Buyer and/or in the Terms and Conditions. At the risk of forfeiting all rights against ABBT, the Buyer is obliged to immediately take all measures to limit the damages and/or loss after the discovery of the defect.
- 13.5 No liability exists (i) if the damage is caused by improper installation of the Products, (ii) if the instructions of ABBT included in e.g. the manuals and videos are not followed and/or (iii) if the Product(s) have been modified or altered.
- 13.6 Nothing in these Terms and Conditions shall exclude or limit ABBT's liability if the damages and/or loss is the consequence of gross negligence or willful misconduct on the part of ABBT or ABBT's executive management.

14. SUSPENSION AND DISSOLUTION

- 14.1 If the Buyer fails to fulfil its obligations towards ABBT, or if ABBT has sound reasons to believe that the Buyer is or will be unable to fulfil its obligations, or if any seizure is imposed on the Buyer or if the Buyer becomes insolvent or is unable to pay its debts as they mature, or if the Buyer is granted a suspension of payments or is declared bankrupt, or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of the Buyer or if the Buyer enters into a deed of arrangement or makes any assignment for the benefit of its creditors, then ABBT may by notice in writing forthwith, without prejudice to its other rights and without ABBT being obliged to pay any compensation of damages:
- (a) demand return and take repossession of any delivered Products which have not been paid for and all costs relating to the recovery of the Products shall be for the account of the Buyer; and/or
 - (b) suspend its performance or completely or partially dissolve the Agreements for pending delivery of Products as well as any agreements directly related to.
- 14.2 In any such event of Article 14.1 Terms and Conditions, all outstanding claims of ABBT shall become due and payable immediately with respect to Products delivered to the Buyer and not repossessed by ABBT.
- 14.3 Any right of the Buyer to suspend performance is hereby excluded.

15. WAIVER

15.1 Failure by ABBT to enforce at any time any provision of the Terms and Conditions shall not be construed as a waiver of ABBT's rights to act or to enforce any such term or conditions and ABBT's rights shall not be affected by any delay, failure or omission to enforce any such provision. No waiver by ABBT of any breach of the Buyer's obligations shall constitute a waiver of any other prior or subsequent breach.

16. INTELLECTUAL PROPERTY

16.1 All intellectual property rights vested in, related to or arising from the Products, including but not limited to designs, drafts, drawings, building blocks, schedules, samples, models, forms, computer simulations, specifications, images and manuals, are and remain the exclusive property of ABBT.

16.2 No assignment or transfer of any intellectual property right is granted hereunder by implication or otherwise. The Buyer acknowledges that ABBT is the owner of the intellectual property rights and will not tarnish these intellectual property rights in any way.

16.3 Without the prior written approval of ABBT, the Buyer is not permitted to use, reproduce, disclose or make public the designs, drafts, drawings, building blocks, schedules, samples, models, forms, computer simulations, specifications, images and manuals. In the event approval is granted, the materials provided by ABBT to the Buyer may only be used in the agreed form in relation to the Products and may not be modified by the Buyer.

16.4 In the event that intellectual property rights arise, will arise, are created or will be created as a result of the sale and/or delivery of the Products, or otherwise in relation to the Products, such intellectual property rights shall vest in and belong exclusively to ABBT and are hereby irrevocably assigned and transferred to ABBT by virtue of signing the Agreement, and ABBT hereby accepts, and Buyer, to the extent permitted by law, waives all personality rights.

16.5 To the best of ABBT's knowledge, no third party (intellectual property) rights are infringed by the Products. However, ABBT does not guarantee (*garanderen*) that no third-party intellectual property (rights) are infringed by the (sale and/or delivery of the) Products.

17. APPLICABLE LAW AND DISPUTE RESOLUTION

17.1 The Terms and Conditions and all orders, offers, order confirmations and agreements as referred to in article 1.1 Terms and Conditions shall be exclusively governed by Dutch law. The UN Convention on Contracts for the International Sale of Goods ("CISG") does not apply.

17.2 All disputes resulting from the Terms and Conditions and all orders, offers, order confirmations and agreements as referred to in Article 1.1 Terms and Conditions and any suits, actions or proceedings that may be instituted by any party shall be settled exclusively:

- (a) in the event that the Buyer has its registered office in a country that is a Member State of the European Union or in Norway, Switzerland, Iceland or the United Kingdom at the time that proceedings are commenced, by the competent District court of Zeeland-West-Brabant, the Netherlands.
- (b) in the event that the Buyer is not domiciled in a Member State of the European Union or in Norway, Switzerland or Iceland upon the commencement of proceedings, in accordance with the rules of the Netherlands Arbitration Institute (the rules that apply at the time the arbitration was initiated) and:
 - (i) the arbitral tribunal shall be composed of (i) one arbitrator in any dispute with a financial interest of a maximum of € 250.000,00 or (ii) three arbitrators in any dispute with a financial interest of more than € 250.000,00; and
 - (ii) the arbitral tribunal shall be appointed according to the list procedure; and
 - (iii) arbitration will take place in Amsterdam, the Netherlands; and
 - (iv) the arbitration proceedings will be conducted in the English language; and
 - (v) the arbitral tribunal shall decide in accordance with the rules of law.