

**General Delivery Conditions
of Lust Antriebstechnik GmbH for Commercial Transactions
in Germany and EU Countries**

VIII. Defects as to quality or performance

The Supplier shall be liable for defects as to quality or performance (hereinafter: defects) as follows:

- 1 a) All parts or services where a defect becomes apparent within the limitation period shall, at the discretion of the Supplier, be repaired, replaced or provided again, irrespective of the hours of operation elapsed, provided that the reason for the defect had already existed at the time when the risk passed.
- b) The warranty inspection and fulfillment of the warranty on the repair item shall be performed exclusively at the Supplier's location. For this purpose the Purchaser shall send the repair item at its own expense to the Supplier. A warranty inspection or fulfillment of the warranty at the Purchaser's location requires a separate service agreement.
- 2 a) Claims based on defects are subject to a limitation period of 12 months. This provision shall not apply where longer periods are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and things used for a building), Sec. 634a para. 1 No. 2 (defects of a building) German Civil Code ("BGB"), as well as in cases of injury of life, body, or health, or where the Supplier through intent or gross negligence fails to fulfill its obligation or fraudulently conceals a defect. The legal provisions regarding suspension of expiration, suspension and recommencement of limitation periods remain unaffected.
- b) The limitation period shall be extended by the amount of time the repair item was down due to correction of the defect.
- 3 The Purchaser shall notify the Supplier of defects in writing and without undue delay.
- 4 In case of notification of defect, the Purchaser shall be entitled to withhold payments to a reasonable extent taking into account the defect occurred. The Purchaser, however, shall be entitled to withhold payments only if the subject matter of the defect occurred is justified beyond doubt. Unjustified notifications of defect shall entitle the Supplier to have its expenses reimbursed by the Purchaser.
- 5 The Supplier shall first be given the opportunity to supplement its performance within a reasonable period of time.
- 6 If the Supplier allows a reasonable period set for subsequent performance to expire without correcting the defect, the Purchaser shall be entitled to demand a reduction in price or withdraw from the contract. This applies equally in other cases in which the correction of the defect fails.
- 7 There shall be no claims based on defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of natural wear and tear or damage arising after the transfer of risk from faulty or negligent handling, improper use, excessive strain, or other inappropriate operation, unsuitable equipment.

influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof shall be likewise excluded.

8 a) The Purchaser shall have no claim with respect to expenses incurred in the course of subsequent performance, including costs of travel and transport, labor, and material, to the extent that expenses are increased because the subject matter of the Supplies was subsequently brought to another location than the Purchaser's branch office. If at the request of the Purchaser the item is sent directly to a third party, the Purchaser's branch office shall be considered the delivery location.

b) The liability of the Supplier excludes – without prejudice to Article XI – costs incurred by the Purchaser or a third party for fault analysis at the Purchaser's location or for the installation and/or removal of the repair item.

9 The Purchaser's right of recourse against the Supplier pursuant to Sec. 478 BGB shall be limited to cases where the Purchaser has not concluded an agreement with its Purchasers exceeding the scope of the statutory provisions governing claims based on defects. Moreover, No. 8 above shall apply mutatis mutandis to the scope of the right of recourse the Purchaser has against the Supplier pursuant to Sec. 478 para. 2 BGB.

10 Furthermore, the provisions of Art. XI (Other claims for damages) shall apply in respect of claims of damages. Any other claims of the Purchaser against the Supplier or its agents or any such claims exceeding the claims provided for in this Art. VIII, based on a defect, shall be excluded.

XII. Jurisdiction and applicable law

1. The court of jurisdiction for all disputes arising from this contractual relationship, if the Purchaser is a merchant who has been entered in the commercial register, a legal entity, or a separate asset under public law, shall be the court of the company seat of the Supplier. The Supplier shall also be entitled to use the court of jurisdiction for its branch that was commissioned with the repair or the court of jurisdiction for the Purchaser.

2. This contract shall be governed exclusively by German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

XIII. Severability

1. The contract shall remain valid even if individual provisions in its remaining parts become legally invalid.

2. No. 1 above shall not apply if enforcement of the contract would represent an unreasonable hardship for one of the parties.