

11. Guarantee, Liability

- 11.1 The following provisions shall apply to our guarantee and other liability for defects in goods supplied or services rendered, including wrong deliveries or services. If our contractual performance also includes assembly, or if it is a separate order for repairs or other performance under a contract on doing work or rendering services, then the following provisions shall also apply to any assembly, repair or other work or services performed.
- 11.2 We afford a guarantee in line with the latest respective standards of technology. Changes in construction or design prior to delivery of an order which do not alter the agreed quality shall not be deemed grounds for complaint.
- 11.3 We shall not assume any guarantee for damage caused due to unsuitable or improper usage, wrong operation, alterations or repairs, wrong or negligent handling, and natural wear and tear. The same applies if unsuitable brake fluid and suchlike are used.
- 11.4 At our option, performance of the guarantee shall be in the form of improvement or replacement of the defective product or part. In individual cases, we reserve the right to issue a credit note for the value of the defective product that has been charged to Customer. Products about which complaints have been lodged must be sent to us for repair free of charge if we so demand. In the event of well-founded complaints about defects, then apart from the costs for improvement or substitute delivery, we shall pay the immediate costs for dispatch nationwide, and for disassembling and assembling the object, provided such costs are in reasonable proportion to the value of the object in respect of which the complaint has been lodged.
If the products we supply are repaired or altered without our involvement, or if maintenance or installation instructions have not been observed, then our obligation to afford guarantee and our liability in other respects shall lapse. After notifying us accordingly, Customer shall have the right to remedy defects at its own expense only in urgent cases where work safety is at risk, or where damage which is out of all proportion must be averted. We shall refund such costs insofar as they would have been incurred if we had done subsequent improvement.
The prescriptive period for subsequent improvements or substitute deliveries shall be one year. Following consultations, Customer is under obligation to give us an opportunity to make subsequent improvements. If neither subsequent improvements nor substitute deliveries are effected, then Customer shall be entitled to rescind the contract on expiry of a deadline that has been set. Customer shall also have right of rescission if we are unable to perform or effect subsequent improvement or substitute delivery
- 11.5 If the object delivered cannot be used by Customer in accordance with the contract due to culpable violation of secondary contractual obligations – in particular operating and maintenance instructions – then we shall similarly only be liable to the extent laid down in Item 11.4 above and Item 12 below. We shall only be liable for consultancy services if separate payment for such services has been agreed in writing.
- 11.6 **Guarantee and other claims shall become statute-barred 24 months after the date of delivery, or at the latest 30 months after delivery to Customer.** If guarantee or other claims are asserted, this shall have no effect on payment obligations and deadlines. If Customer fails to perform its payment obligations, or fails to do so punctually, then our obligations governed by the above provisions shall lapse until such time as said payment obligations have been performed. Customer's right to assert claims based on defects shall depend on Customer duly having performed its obligations to inspect the goods and report defects.
- 11.7 User's guarantee claims are conclusively governed by Section 11 of these Terms of Business. Section 12 below shall apply to any related compensation claims.

12. Overall Liability

Liability for Customer's losses shall only be assumed if they have been caused due to intent or gross negligence on the part of FTE automotive or those assisting the latter in performing its obligations. This limitation of liability shall apply to all compensation claims for whatsoever legal cause, in particular for claims to compensation for damage to property based on *culpa in contrahendo*, other violations of duty, or tort. The limitation of liability in the above clause shall not apply to any liability laid down by mandatory law, such as under Product Liability Law, or for damage caused due to the lack of expressly warranted characteristics or guaranteed specifications, insofar as the purpose of the warranty or guarantee was to protect Customer against the very damage sustained. Liability shall also be assumed in the event of cardinal duties being breached due to slight negligence, but only up to the amount of the predictable damage typical for the type of contract. Customer is under obligation to take appropriate measures for averting or minimising damage. If the claims to compensation imposed on us are excluded or limited, this shall also apply to the personal liability for damages on the part of our employee, workers, staff, representatives, and those assisting us with the performance of our obligations. The aforementioned restriction shall also apply if Customer demands compensation for wasted expenditure instead of damages.