

## General Terms and Conditions of Sale

Last revised: June 2021

### 1. Scope of Application, Form

- 1.1 These General Terms and Conditions of Sale (GTCS) apply to all business relations of Lenze SAS (a simplified joint stock company registered in the Pontoise Trade and Companies Register under number 718 204 498) and its Buyers ("Buyers"). The GTCS shall only apply if the Buyer is an entrepreneur (Section 14 of the German Civil Code, "BGB"), a legal entity under public law or a special fund under public law.
- 1.2 The GTCS apply in particular to agreements on the sale and/or delivery of movable goods ("Goods"), irrespective of whether we produce the goods ourselves or purchase them from suppliers (Sections 433, 650 of the BGB). Unless otherwise agreed, the GTCS in the version valid at the time of the Buyer's order or at any rate in the version last transmitted to them in writing shall also apply to similar future agreements without our having to refer to them again in each individual case
- 1.3 Our GTCS shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Buyer shall only become an integral part of the agreement if and to the extent that we have expressly consented to their validity. This consent requirement shall apply in any case, for example even if we carry out the delivery to the Buyer without reservation, in knowledge of the Buyer's general terms and conditions.
- 1.4 Individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these GTCS in any case. Subject to evidence to the contrary, a written agreement or our written confirmation shall be definitive for the content of such agreements.
- 1.5 Legally relevant declarations and notices of the Buyer relating to the agreement (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarator, shall remain unaffected
- 1.6 References to the applicability of statutory provisions are provided only for clarification. Therefore, even without such clarification, the statutory provisions shall apply, to the extent they are not directly amended or expressly excluded in these GTCS.
- 1.7 In the case of framework agreements and continuing obligations, the Buyer shall be notified in writing of any amendments to the GTCS. They shall be deemed approved unless the Buyer raises an objection in writing within one month of receipt of the notification, it being specified that the modified GTCs then take effect on the day of the said notification. We shall make special reference to this consequence.

### 2. Conclusion of Contract

- 2.1 Our proposals are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans,

evaluations, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve property rights and copyrights.

- 2.2 The ordering of the Goods by the Buyer shall be deemed to constitute a binding offer to conclude a contract.
- 2.3 Acceptance can be provided either in writing (e.g. through order confirmation) or through delivery of the Goods to the Buyer within 14 days after receipt of the order, unless otherwise specified in the order.

### **3. Deadlines and Delay in Delivery**

- 3.1 Deadlines shall be agreed individually or specified by us upon acceptance of the order. It is indicative, unless otherwise stated.
- 3.2 We shall not be liable for impossibility of delivery or for delivery delays to the extent these are caused by force majeure or other events unforeseeable at the time of conclusion of contract (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transportation delays, strikes, lawful lock-outs, shortage of labour, energy or raw materials, difficulties in obtaining necessary official approvals, official measures or pandemics, unavailability of supplies due to late delivery by our suppliers despite corresponding contractual agreement) for which we are not responsible. If such events make it considerably more difficult or impossible for us to deliver Goods or render services, and if the impairment is not only of a temporary nature, we shall be entitled to withdraw from the agreement. In case of hindrances of a temporary duration, the delivery or service deadlines shall be extended or the delivery or service deadlines shall be postponed by the period of the hindrance, plus a reasonable starting period. To the extent the Buyer cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the agreement by means of a prompt written declaration to us.
- 3.3 The occurrence of our delivery delay shall be determined according to statutory provisions. In any case, however, a reminder by the Buyer shall be required. In case of persistent delay following such notification, the Buyer may demand lump-sum compensation for the damage caused due to the delay. The flat-rate compensation amounts to 0.5% of the net price of the delayed goods, including the delivery amount (hereinafter referred to as "Delivery Value") for each full calendar week of delay, overall, however, no more than 5% of the Delivery Value of the delayed Goods. We reserve the right to demonstrate that the Buyer has not suffered any damage or that the damage is significantly less than the aforementioned lump sum. The Buyer shall have no additional claim to reimbursement of damages caused by delay, unless a case of Section 8.1.1 or 8.1.3 exists.
- 3.4 As long as the Buyer fails to perform its obligations in whole or in part, the terms and deadlines, even if they have been agreed to be binding, shall be automatically extended by the same amount, without prejudice to any claims for damages in favour of Lenze and without any recourse for the Buyer. This shall apply to late payment, even under other contracts, or late provision by the Buyer of personnel, premises, accessories and any work required for assembly, etc.

Our statutory rights, especially in case of exclusion of the obligation to perform (e.g. due the impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

#### **4. Delivery, Passing of Risk, Acceptance, Default in Acceptance**

- 4.1 The delivery is made ex warehouse, which is also the place of performance for the delivery and any subsequent performance. Upon request and at the expense of the Buyer, the Goods will be shipped to a different destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment at our discretion (in particular, the transport operator, shipping route, packaging).
- 4.2 The risk of accidental loss and accidental deterioration of the Goods shall pass to the Buyer upon handover at the latest. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the Goods, as well as the risk of delay, shall already pass upon delivery of the Goods to the forwarding agent, the carrier or any other person or institution designated to deliver the Goods. To the extent acceptance has been agreed upon, this shall be decisive for the passing of risk. In all other respects, the statutory provisions of laws governing contracts for work and services shall also apply mutatis mutandis to agreed acceptance. If the Buyer is in default of acceptance of delivery, this is equivalent to delivery and/or acceptance.
- 4.3 If the delay in delivery is due to the Buyer's failure to take delivery, lack of cooperation of the Buyer, or other reasons of the Buyer, we shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). For each month of storage or part thereof, we shall charge storage fees in the amount of 0.5% of the price before VAT of the product(s) accepted late, but without exceeding 5% of the price before VAT of the product(s) accepted late, beginning with the initial delivery deadline or – in the absence of a delivery deadline – upon notification of readiness for despatch of the Goods.
- 4.4 The proof of higher damage and our legal claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum is to be credited against further monetary claims. The Buyer reserves the right to demonstrate that we have not suffered any damage or that the damage is significantly less than the aforementioned lump sum.

#### **5. Prices and Terms of Payment**

- 5.1 Unless otherwise agreed on an individual basis, our prices current at the time of conclusion of contract shall apply, ex warehouse, subject to statutory VAT.
- 5.2 In case of sale by delivery to a place other than the place of performance (Section 4.1), the Buyer shall bear the transport costs ex warehouse and the costs of transport insurance, if desired by the Buyer. We will invoice the transport costs actually incurred on the basis of a percentage of the net price excluding VAT of the goods sold (excluding transport insurance). The amount of the contribution to these costs is specified in the offer, in the catalogue or in the corresponding tariff.
- Any customs duties, fees, charges, taxes and other public levies shall be borne by the Buyer.
- 5.3 Packaging, loading, freight and insurance costs, as well as assembly and commissioning costs, shall be invoiced in addition to the net price excluding VAT of the goods sold. The same shall

apply to application software and related licensing rights. The buyer shall be charged separately for fees and costs for the procurement and authentication of certificates of origin, consular invoices, permits, etc. Packaging and freight costs are charged on the basis of a percentage of the net price excluding VAT of the goods sold, the amount of the contribution to these costs being specified in the offer, in the catalogue or in the corresponding tariff.

- 5.4 When standard equipment is sold, planning work, supplementary work and other engineering services are not part of the standard service and are not included in the prices. Documentation is provided by standard operating manuals and standard wiring diagrams.

Circuit diagrams and project planning with regard to the specific drive case are not part of our services, nor are the mains in-feed, switch-on control, external control and linking.

- 5.5 We shall be bound to the prices agreed for an order for four months after conclusion of contract. If longer periods have been agreed upon for the provision of the delivery or service, we shall be entitled, in the event of an increase in the cost of materials or labour, to add a pro-rated surcharge for the increase in costs that has occurred on the basis of the original price calculation. The provision in this Section 5.5 shall not apply to prices for which a material price surcharge has been agreed upon in accordance with the following Section 5.6.

- 5.6 If and to the extent that a material price surcharge is agreed upon in an order for servo synchronous motors, the following shall apply: Servo synchronous motors use magnets containing the raw materials neodymium and dysprosium (so-called "rare-earth elements").

These commodities, which are subject to strong price fluctuations, were calculated using a base value from March 2011 or lower in the price calculation.

The material price surcharge shall be calculated if there is an increase in price between the March 2011 base value and the current value at the time of invoicing. The price in March 2011 for both raw materials (by kilogram of material incorporated in the respective engine) and the prices at the time of invoicing, provided that this is not later than 5 days after delivery, shall be compared; otherwise the day of delivery of the respective engine shall be decisive for the calculation. The prices quoted on Asian Metal ([www.asianmetal.com](http://www.asianmetal.com)) shall be decisive in each case. Price increases occurring in relation to March 2011 – based on the weight of the two raw materials contained in each motor – shall be calculated in addition to the contractually agreed price.

With respect to further details of the material price surcharge, please refer to the below website <https://www.lenze.com/en-de/material-price-surcharge/> .

- 5.7 Invoices shall be issued on the date of delivery and shall be payable to Lenze's bank account by cheque or bank transfer within 45 days from the date of issue of the invoice. The minimum invoice amount is 150 euros excluding VAT.

- 5.8 Upon expiry of the aforementioned payment deadline, the Buyer shall be in default. During the period of default, interest shall be charged on the purchase price at the prevailing statutory default interest rate. We reserve the right to assert further damages caused by the default. Towards merchants, our entitlement to interest counting from the due date (Section 353 of the German Commercial Code, "HGB") shall remain unaffected.

- 5.9 The Buyer shall only be entitled to rights of set-off or retention to the extent their claim has been legally established by the final judgement of a court of law. In case of defects in the delivery, the Buyer's counter rights shall remain unaffected, in particular in accordance with Section 7.6 Sentence 2 of these GTCS.

5.10 After conclusion of contract, if it becomes apparent (e.g. due to an application for the opening of insolvency proceedings, repeated failure to meet payment terms, exceeding of the limit set by the credit insurer) that our claim to the purchase price is jeopardised by the Buyer's lack of ability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the agreement (Section 321 of the BGB). In the case of contracts for the manufacture of nonfungible items (custom-made products), we may declare withdrawal immediately; the statutory provisions on the dispensability of notice shall remain unaffected. In addition, we are entitled to refuse all further services and to demand advance payment. These provisions shall apply subject to the public policy provisions of the law applicable to the Buyer's insolvency proceedings.

## **6. Retention of title**

6.1 Up until full payment of all our present and future claims arising from the purchase agreement and an ongoing business relationship (secured claims), we retain title to the Goods sold.

6.2 The Goods subject to retention of title may neither be pledged to third parties nor assigned as security prior to full payment of the secured claims. The Buyer shall be obliged to inform us immediately in writing if an application is filed to open insolvency proceedings or if the Goods belonging to us are subject to appropriation by third parties (e.g. seizures).

6.3 If the Buyer acts in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the agreement in accordance with the statutory provisions and/or to demand the return of the Goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; rather, we shall be entitled to demand the return of the Goods only and to reserve the right of withdrawal. If the Buyer does not pay the purchase price due, we may only assert these rights if we have previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline can be dispensed with according to the statutory provisions.

6.4 Pending withdrawal according to Section 6.4.3, the Buyer shall be authorised to resell and/or process the Goods subject to retention of title in the ordinary course of business. In this case, the following supplementary provisions shall apply.

6.4.1 In the event of processing, mixing or combining with goods of the Buyer or of third parties, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. Otherwise, the same shall apply to the resulting product as to the Goods delivered under retention of title.

6.4.2 The Buyer hereby assigns to us with immediate effect by way of security all claims against third parties arising from the resale of the Goods or the product in total or in the amount of our co-ownership share, if any, in accordance with Section 6.4.1. We accept such assignment. The duties of the Buyer specified in Section 6.2 shall also apply with respect to the assigned claims.

6.4.3 The Buyer, in addition to us, shall remain authorised to collect the claim. We oblige not to collect the claim as long as the Buyer meets their payment obligations towards us, there is no lack of ability to pay, and we do not assert the retention of title by exercising a right in accordance with Section 6.3. If this is the case, however, we can demand from the Buyer to inform us of the assigned claims and their debtors, provide all information necessary for

collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. In addition, we shall be entitled in this case to revoke the Buyer's authorisation to re-sell and process the Goods subject to retention of title.

- 6.4.4 In case the realisable value of the securities exceeds our claims by more than 10%, we will release securities at our discretion upon request of the Buyer.

## **7. Buyer's Warranty Claims for Defects**

- 7.1 Unless otherwise specified below, the statutory provisions shall apply to the rights of the Buyer in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions).

- 7.2 The basis of our liability for defects shall be, above all, the agreement reached on the quality of the Goods. In particular, all product descriptions and manufacturer specifications incorporated in the individual agreement shall be deemed to be an agreement on the quality of the Goods. General statements of third parties (e.g. advertising) cannot be taken into account, unless the Buyer has indicated that they are decisive for the purchase.

- 7.3 To the extent the quality was not agreed upon, it is to be judged according to statutory rules whether a defect exists or not (Section 434 Subsection 1 Sentences 2 and 3 of the BGB). In the event that the Buyer wishes to benefit from a more extensive guarantee (in particular due to the use of the products for specific technologies: aeronautics, nuclear, etc.), additional guarantee checks can be carried out at the express request of the Buyer and will be subject to additional invoicing and payment of an additional price.

- 7.4 As a general rule, we shall not be liable for defects of which the Buyer is aware at the time when the agreement is concluded or is not aware due to gross negligence (Section 442 of the BGB). Moreover, the Buyer's warranty claims for defects presuppose that they have fulfilled their statutory duty of inspection and notification of defects (Sections 377, 381 of the HGB).

In the case of Goods intended for installation or other further processing, an inspection must be carried out at the latest immediately prior to processing. If a defect becomes apparent during delivery, inspection or at any later time, we must be notified of this in writing without delay. In any case, obvious defects must be reported in writing within 5 working days of delivery, and defects that cannot be detected during inspection must be reported within the same period of time after their discovery. If the Buyer fails to carry out a proper inspection and/or to give notice of defects, our liability for the defect which was not reported or not reported in a timely or proper manner shall be excluded in accordance with the statutory provisions.

- 7.5 Unless otherwise provided for in the GTC, the warranty shall exclusively cover, at Lenze's discretion, the replacement of parts found to be defective by Lenze, their repair, and/or the replacement of the goods with a conforming good. We shall be entitled to refuse to accept the remedy in accordance with the applicable law.

- 7.6 We shall be entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable portion of the purchase price in relation to the defect.

- 7.7 The Buyer shall give us the time and opportunity necessary for the subsequent performance owed, in particular hand over the rejected Goods for inspection purposes. In case of a replacement delivery, the Buyer must return the defective item to us in accordance with the statutory provisions. Subsequent performance shall neither include the removal of the defective item nor its re-installation if we were not obliged to install it in the first place.
- 7.8 We shall bear or reimburse the expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, in accordance with the statutory provisions if a defect is actually present. Otherwise, we may demand from the Buyer reimbursement of the costs incurred as a result of the unjustified request to remedy the defect (in particular, inspection and transport costs)
- 7.9 In urgent cases, e.g. if Buyer's staff or property are jeopardised, or to prevent disproportionate damage, the buyer shall have the right to remedy the defect themselves and to demand reimbursement from us for the expenses objectively required for this purpose. We are to be informed immediately, if possible in advance, of any such own measures. The right to carry out own measures shall not exist if we would be entitled to refuse a corresponding supplementary performance in accordance with applicable legal provisions.
- 7.10 If supplementary performance has failed or if a reasonable period to be set by the Buyer for the supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the Buyer may withdraw from the purchase agreement or reduce the purchase price. No right of withdrawal shall exist, however, in case of a trivial defect.
- 7.11 Claims of the Buyer for damages or reimbursement of futile expenses shall also exist in the case of defects only according to Section 8 and shall otherwise be excluded.
- 7.12 A free right of termination by the Buyer (in particular according to Sections 650, 648 of the BGB) shall be excluded. Otherwise, the statutory prerequisites and legal consequences shall apply.

## **8. Other Liability**

- 8.1 To the extent not specified to the contrary in these GTCS, we shall be liable as follows
- 8.1.1 in case of wilful misconduct,
- 8.1.2 in case of gross negligence of our legal representatives and employees,
- 8.1.3 in case of malice,
- 8.1.4 for damage resulting from injury to life, limb or health for which we are responsible,
- 8.1.5 for damage resulting from the breach of an essential contractual obligation (i.e. an obligation the fulfilment of which is a prerequisite for the proper performance of the agreement and on the observance of which the contractual partner regularly relies and may rely),
- 8.1.6 for the warranties assumed,

- 8.1.7 for claims arising from the German Product Liability Act and
- 8.1.8 to the extent legally mandated liability exists for other reasons.
- 8.2 Except in the cases of 8.1.1 and 8.1.3, we shall not be liable for loss of profit.
- 8.3 Except in the cases of 8.1.1 and 8.1.3, we shall not be liable for production downtime.
- 8.4 In cases of liability due to a minor negligent breach of an essential contractual obligation (Section 8.1.5), our liability per damage incident shall be restricted to the respective order volume of the respective individual order, but limited to a maximum of EUR 1 million.
- 8.5 The provisions of this Section 8 shall also apply to a claim for reimbursement of expenses.
- 8.6 In all other cases, our liability – irrespective of the legal grounds – shall be excluded.

## **9. Limitation**

- 9.1 The limitation period for claims based on material defects and defects of title shall be 24 months from delivery. To the extent that acceptance is agreed upon, the limitation period shall begin with acceptance.
- 9.2 The above limitation periods shall also apply to contractual and non-contractual claims for damages of the Buyer which are based on a defect of the Goods. The Buyer's claims for damages according to Sections 8.1.1 and 8.1.3, as well as according to the German Product Liability Act, shall become time-barred solely in accordance with the statutory periods of limitation.

## **10. Intellectual Property rights**

- 10.1 For all documents, objects, etc. provided to us for the purpose of delivery or performance, the Buyer shall be responsible for ensuring that the intellectual property rights of third parties are not infringed in the process. The Buyer shall indemnify us against claims by third parties and compensate us for any damage incurred. If we are prohibited from performance, manufacturing or delivery by a third party invoking an intellectual property right belonging to them, we shall be entitled – without review of the legal position – to discontinue the work and to demand compensation for the expenses incurred. Any documents, objects, etc. provided to us which have not led to the order shall be returned on request in exchange for reimbursement of costs. Otherwise, we shall be entitled to destroy them three months after submitting the proposal.
- 10.2 We shall reserve the ownership rights and copyrights to all samples, models, drawings, cost estimates, calculations and similar information of a tangible or intangible nature – also in digital form. This type of information must not be made available to third parties. If the Buyer receives such information in connection with contract initiation, they shall be obliged to return it to us free of charge if the agreement is not concluded.
- 10.3 To the extent software is embedded into the Goods, the Buyer shall have the non-exclusive right to use it in unmodified form in the delivered Goods. Any individual contractual agreements shall take precedence



## **11. Confidentiality**

11.1 The Buyer obliges to keep strictly confidential all information (in particular data and documents) pertaining to us (hereinafter collectively referred to as "Information") to which they become privy in verbal, written or any other form – even if prior to conclusion of this agreement – (also by our service providers) during the term of this agreement and thereafter and – unless absolutely necessary for the performance of this agreement – not to record it, disclose it to third parties or to exploit it themselves. This also applies to Information of other companies of the Lenze Group.

11.2 The aforementioned confidentiality obligation shall not apply to Information that :

- can be demonstrated to have already been known to the Buyer prior to the cooperation with us without obligation to maintain confidentiality, or
- is or becomes generally known without the Buyer being responsible for this, or is disclosed to the Buyer by a third party without breach of any confidentiality obligation, or
- must be disclosed on the basis of an enforceable official or judicial decision or a legal provision. In this case, the Buyer must notify us in writing prior to disclosure to give us the opportunity to obtain a protective court order.

The burden of proof for the existence of a legitimate exemption shall be borne by the Buyer.

11.3 The Buyer shall only be entitled to disclose the fact of the parties' cooperation to third parties, in particular to name us as a reference, with our prior written consent. Press releases or other statements to the public must be coordinated with us in advance. The above provisions shall not apply if and to the extent that they conflict with mandatory statutory provisions, in particular statutory disclosure requirements.

## **12. Export**

The Buyer shall be obliged to comply with all applicable national and international export control and sanctions regulations, in particular those of the United Nations, the European Union, France, Germany and the United States. Listed dual-use products must also not be imported into free zones or free warehouses. This obligation shall only apply to the extent it does not lead to a violation of so-called anti-boycott regulations of EU or German law.

## **13. Choice of Law and Place of Jurisdiction**

13.1 The law of the Federal Republic of Germany shall apply to these GTCS and the contractual relationship between us and the Buyer, to the exclusion of international uniform law, in particular, the UN Convention on Contracts for the International Sale of Goods.

13.2 If the Buyer is a merchant, as defined in the German Commercial Code (HGB), a legal entity under public law or special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Hanover, Germany. The same applies if the Buyer is an entrepreneur within the meaning of Section 14 of the BGB. In all cases, however, we shall also be entitled to bring suit at the place of performance of the delivery obligation according to these GTCS or individually agreed terms or at the Buyer's general place of jurisdiction. Overriding statutory provisions, in particular on exclusive jurisdictions, shall remain unaffected.