

## General Terms and Conditions of Sale

Last revised: August 2022

### 1. Scope of Application, Form

- 1.1. General Terms and Conditions of Sale (GTCS) apply to all business relations between Lenze Drive Systems (Shanghai) Co., Ltd. ("Lenze" or "the Seller") and their Buyers ("Buyers"). The GTCS shall only apply if the Buyer are natural persons, legal persons and organizations without legal person qualifications that engage in the production or business operations of goods or provide services.
- 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 595 of the PRC Civil Code in case of a Purchase and Sale Contract, Section 780 of the PRC Civil Code and the relevant provisions in future agreement separately in case of a Contract of Work). 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. **SPECIAL NOTE: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. 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.
- 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 objective conditions unforeseeable, unavoidable and insurmountable 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 explicit reminder within a reasonable period of time by the Buyer shall be required. If we are delayed in delivery, the Buyer may demand lump-sum compensation for the damage caused due to the delay. The lump-sum compensation shall be 0.5% of the net price (delivery value excluding tax) for each full calendar week of delay, overall, however, no more than 5% of the delivery value excluding tax 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, and the right to claim non-compensation or reduction of compensation accordingly. **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. Our statutory rights, especially in case of exclusion of the obligation to perform (e.g. due to 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 Buyer is in default of acceptance, if they fail to engage in an act of cooperation or if our delivery is delayed for other reasons for which the Buyer is responsible, 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 of the product accepted late, but not totalling more than 5% of the price of the product accepted late, beginning with the delivery deadline or – in the absence of a delivery deadline – upon occurrence of the event causing the delay. Odd days less than one month shall be calculated on a daily basis.

The proof of higher damage and our legal claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected and the Buyer shall compensate the actual losses suffered by us; however, the stipulated contractual penalty 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, excluding statutory value-added tax.
- 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 either invoice the transport costs actually incurred in the individual case or agree on a lump sum for transport costs (excluding transport insurance). 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 separately. The same shall apply to application software. The Buyer shall be charged separately for fees and costs for the procurement and authentication of certificates of origin, consular invoices, permits, etc..
- 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/products/motors/servo-motors/material-price-surcharge/>.

- 5.7. The purchase price shall be due and payable within 14 days from the date of invoice and delivery or acceptance of the Goods. However, we are entitled at any time, even within the scope of an ongoing business relationship, to make a partial or complete delivery subject only to advance payment. We declare such a reservation at the latest with the order confirmation.
- 5.8. If the Buyer fails to pay 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 default interest rate of 0.4 ‰ per day. We reserve the right to assert further damages caused by the default and our entitlement to interest counting from the due date shall remain unaffected.
- 5.9. The Buyer shall only be entitled to rights of set-off to the extent their claim has been legally established by the final and effective judgement of a court of law. In case of defects in the delivery, the Buyer's counter rights shall remain unaffected.
- 5.10. After conclusion of contract, if it becomes apparent (e.g. due to an application for the opening of insolvency proceedings, failure to meet payment terms for three times cumulatively in the business with Lenze, 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 suspend performance in accordance with the statutory provisions. We shall notify the Buyer of the suspension, and will only resume the performance when the Buyer provides appropriate guarantees. In case the Buyer neither regains its capability of meeting its liabilities nor provides appropriate guarantees within a reasonable deadline settled by us, we shall be entitled to terminate the agreement and raise claims (Section 528 of the PRC Civil Code). In addition, we are entitled to refuse all further services and to demand advance payment.

## **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 (claims subject to retention of title), we

retain title to the Goods sold. We reserve the option to register the Goods on retention of title with the PRC Moveable Property Financing Unified Public Notice System. If the Buyer refuse to cooperate with us in such registration, we reserve the right to withdraw the Goods at any time and consequently if the Goods cannot be recovered by us, the Buyer shall be obligated to compensate all losses we may sustain thereof.

- 6.2. The Goods subject to retention of title may neither be pledged to third parties nor improperly disposed prior to full payment of the claims subject to retention of title. 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.
- 6.4. Pending withdrawal according to Section 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 retention of title 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. Otherwise, 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 retention of title exceeds our claims by more than 10%, we will release retention of title at our discretion upon request of the Buyer.

## **7. Buyer 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.

- 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 511 Subsection 1 of the PRC Civil Code). However, we shall accept no liability for public statements made by the manufacturer or other third parties (e.g. promotional claims) to which the Buyer has not drawn our attention as being decisive for their purchase.
- 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 and the defects raised by the Buyer shall be proofed by himself. Moreover, the Buyer's warranty claims for defects presuppose that they have fulfilled their statutory duty of inspection and notification of defects (Sections 620 of the PRC Civil Code). 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 one month upon its delivery. 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. If the delivered item is defective, we may initially choose whether to provide supplementary performance by remedying the defect (rectification) or by delivering an item free of defects (replacement). Our right to refuse subsequent performance under the statutory conditions shall remain unaffected.
- 7.6. We shall be entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due.
- 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, upon separate agreement, the Buyer shall return the defective item to us. 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 and caused by our intentional acts or gross negligence. 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 the operational safety is 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 statutory 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 787 OF THE PRC CIVIL CODE) SHALL BE EXCLUDED.**

## **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 representative, authorized 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. making it impossible to achieve the purposes of the contract
  - 8.1.6. for the guarantee assumed,
  - 8.1.7. for claims arising from the Product Quality Law and PRC Civil Code and 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), 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 QUALITY WARRANTY PERIOD SHALL BE 18 months from the date when the Buyer has completed or is deemed to have completed the acceptance of the goods, but the maximum period shall not exceed 24 months after the delivery of the goods by Lenze.**
- 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 PRC Product Quality Law, 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 these GTCS and the individual agreements – (also by our service providers) during the term of these GTCS and the individual agreements and thereafter and – unless absolutely necessary for the performance of these GTCS and the individual agreements – not to record it, disclose it to third parties or to exploit it themselves. This also applies to Information of other affiliated companies of Lenze.
- 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 the remedies.

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 and/or final customers are obliged to comply with all applicable national and international export controls and sanctions regulations, in particular the ones of the United



Nations, China, the European Union and the United States. In any event, shipments to the following destinations are prohibited: Iran, North Korea, Pakistan and Syria. Further, for the supply of items listed on the Wassenaar Arrangement Dual Use List (<https://www.wassenaar.org/control-lists>), the Buyer agrees to provide and request the final customers to provide records to identify and prove the end user and the end use after the shipment if Lenze may so request. Imports into free zones or free warehouses are strictly prohibited.

Should any government or agency thereof at any time during the term of these GTCS and the individual agreements hereof enact any law or regulations, impose any requirements or restrictions, or takes any actions, which in the Lenze's sole opinion having material and adverse effect on the transaction or imposing undesired compliance exposure to Lenze, then, at the request of Lenze, the Parties shall enter into good faith negotiations with the objective of restructuring the relationship among the Parties to minimize the adverse effect of said actions. If the Parties cannot reach a reasonably acceptable modification hereto within three (3) months, any Party shall have the right to unilaterally terminate these GTCS and the respective individual agreements forthwith by giving notice to the other Party.

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

- 13.1. The laws of the People's Republic of China shall apply to these GTCS and the contractual relationship between the Seller 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. Any dispute arising from or in connection with this GTCS, any contract, quotation, purchase order or order confirmation that cannot be settled through negotiation, shall be referred to the People's Court of Pudong New Area, Shanghai, where Lenze is located.