

## General Terms and Conditions of Sale

Last revised: June 2022

### 1. Scope of Application, Form

- 1.1. These General Terms and Conditions of Sale ("GTCS") apply to all business relations between the company **Lenze, s.r.o., (Business-ID 26032953)**, registered with the Commercial Register maintained by the Regional Court in České Budějovice, Section C, Insert 10428 ("Seller") and its Buyers ("Buyers"). The GTCS shall only apply if the Buyer is an entrepreneur (Section 420 of the Act No 89/2012 Coll., the Civil Code, "CC") or a legal entity under particular legal regulations. Where it is mentioned "we", "us", "our" in these GTCS or a similar term, it is meant the Seller.
- 1.2. The GTCS apply in particular to agreements on the sale and/or delivery of movable goods or provision of services ("Goods"), irrespective of whether we produce the goods ourselves or purchase them from suppliers. Unless otherwise agreed, the GTCS in the version valid at the time of the individual order confirmation of the Seller shall also apply to similar future agreements without our reference to them again in each individual case.
- 1.3. These GTCS shall apply exclusively. Any 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. In case of differences between individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) and these GTCS, the individual agreements 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); such declarations and notices are binding us only after their written acceptance by us. 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 accepted unless the Buyer raises an objection in writing within one month of receipt of the notification. We shall make special reference to this consequence. In the absence of a notification under this Section 1.7, the GTCS in the last version accepted or deemed accepted by the Buyer shall apply.

## **2. Conclusion of Agreement**

- 2.1. Any information provided by us in the course of conclusion of a agreement is 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 Goods' 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 agreement.
- 2.3. The agreement is concluded by the acceptance of the purchase order (“order”) of the Buyer by us. Acceptance can be provided either in writing (e.g. through order confirmation sent to Buyer’s e-mail address) or through delivery of the Goods to the Buyer within 14 days after receipt of the purchase order, unless otherwise specified in the purchase 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 events unforeseeable at the time of conclusion of agreement (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. If we are delayed in delivery, except for the situations mentioned in the Section 3.2. of these GTCS, for more than 10 business days, 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 (i.e., the price exclusive of value added tax) of the delayed Goods or services for each full calendar week of delay but will not exceed 5% of the net price of the delivery value of the delayed Goods or services. 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, in such a case, the Buyer is not entitled to lump-sum compensation. The Buyer shall have no additional claim to reimbursement of damages caused by delay, unless a case of Section 8 of these GTCS.
- 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. Delivery shall be made by our forwarding agent to the agreed destination. The Buyer will be charged for freight and packaging. 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 by a forwarding agent, carrier or any other person or institution designated to deliver the Goods, 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 the other person or institution designated to deliver the Goods.
- 4.3. If the Buyer is in default of acceptance, if it fails 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 any and all expenses related thereto (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 net price of the Goods accepted late starting as of beginning with the delivery deadline or – in the absence of a delivery deadline – upon notification of readiness for despatch of the Goods. Our further statutory rights shall remain unaffected.

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

- 5.1. Unless otherwise agreed on an individual basis, our current prices at the time of conclusion of agreement shall apply subject to any applicable value-added tax.
- 5.2. Packaging, transportation, loading, freight and insurance costs, as well as assembly and commissioning costs, shall be invoiced additionally. 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.
- 5.3. In case of sale by delivery to a place other than the originally agreed place of performance (Section 4.2.), the Buyer shall bear the additional transport costs 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
- 5.4. 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 by the prices agreed for an order for two months after conclusion of agreement. If longer periods have been agreed upon for the provision of the delivery of Goods, 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 used as a reference for the current price 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-cz/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. 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.
- 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 agreement, 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. In the case of agreements for the manufacture of non-fungible items (custom-made Goods), 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.

## **6. Retention of title**

- 6.1. Up until full payment of all our present and future claims arising from the purchase agreement (secured claims), we retain ownership title to the Goods sold.
- 6.2. The Goods subject to retention of title may neither be pledged to the 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 the third parties (e.g. seizures).

- 6.3. Before the Buyer proceed with payment under the Section 6.1. of these GTCS, the Buyer shall only 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. Upon our request, the Buyer shall be obliged to transfer any proceeds from such a sale and/or process pursuant to the preceding sentence to us.
- 6.3.1. 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.
- 6.3.2. The Buyer shall assign to us immediately upon our request all claims against third parties arising from the resale of the Goods delivered to the Buyer based on agreement in total or in the amount of our co-ownership share, if any, in accordance with Section 6.3.1. The Buyer shall provide all necessary cooperation, including any information requested by us, in order to enable us to decide whether to request an assignment under the preceding sentence and generally to give effect to such assignment. The Buyer shall duly comply with its obligations under the CC. The duties of the Buyer specified in Section 6.2 shall also apply with respect to the assigned claims.
- 6.3.3. In case the realisable value of the Goods subject to the retention title exceeds our claims by more than 10%, we may release securities at our discretion upon request of the Buyer.
- 6.4. In the event enforcement proceedings are conducted against the Buyer, insolvency proceedings are initiated against the Buyer, or the Buyer enters into liquidation without a legal successor, the Buyer shall allow us to enter any premises or any real estate of the Buyer where the Goods to which we have the retention title or the product in which such Goods are incorporated are located, and allow the Company to separate the goods if contained in another product and repossess.

## **7. Buyer 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 performed by us 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 Goods' 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 or intended use was not agreed upon, it is to be judged according to statutory rules whether a defect exists or not (Section 2099 of the CC). 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 must have discovered at the conclusion of the agreement by paying usual attention, was informed by us upon agreement's conclusion or in case of sale of defective goods with discount for this reason. Moreover, the Buyer's claims for defects presuppose that they have fulfilled their statutory duty of inspection and notification of defects. 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 after delivery or at any later time (if such inspection could not be done for objective reasons upon the delivery), 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 after the delivery 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. If the delivered Goods is defective, the Buyer shall have the right to require us to remove such defects. In such a case, we have the right to choose one of the following methods of defect removal:
- a) The removal of defect by delivery of a new defect-free item or a missing item supplied;
  - b) The removal of the defect by having an item repaired; or
  - c) A reasonable reduction of the purchase price.

We shall notify the Buyer of the right we have chosen upon the notification of the defect or without undue delay thereafter. We may not change the choice made without the consent of the Buyer; this does not apply if we choose the repair of a defect which proves to be irreparable. If we fail to remove the defects within a reasonable time limit or if we notify the Buyer that we will not remove the defects, we may, instead of having the defects removed, provide the Buyer with a reasonable reduction of the purchase price or withdraw from the agreement.

If we fail to make a choice of defect removal, the Buyer has the right to choose any of the above-mentioned methods of defect removal.

Until the Buyer asserts his right to a reduction of the purchase price or withdraws from the agreement pursuant to the preceding paragraph, we may supply what is missing or remove a legal defect. We may remove other defects by repairing an item or supplying a new item, and the choice remains at our full discretion; however, the choice must not cause the Buyer to incur unreasonable costs. If we fail to remove a defect of an item in time or refuses to remove the defect, the Buyer may request a reduction of the purchase price or withdraw from the agreement. The Buyer may not change his choice without our consent.

- 7.6. Pursuant to this Section 7, 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). The place of performance for the rectification of defects shall be our registered office.
- 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 subsequent performance in accordance with applicable legal provisions. 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.

## **8. Other Liability**

8.1. To the extent not specified to the contrary in these GTCS and subject to the statutory limitations, we shall only be liable for caused harm as follows:

8.1.1. In case of wilful misconduct;

8.1.2. In case of gross negligence;

8.1.3. For harm caused to the natural rights of an individual; and

8.1.4. To the extent legally mandated liability exists for other reasons, where the liability cannot be contractually excluded.

8.2. In all other cases, our liability – irrespective of the legal grounds – shall be excluded. We shall namely not be liable to the Buyer for:

8.2.1. Any damage caused to the Buyer arising from or in connection with the Contract;

8.2.2. Any information or advice provided in connection with the Goods unless confirmed in writing;

8.2.3. Any properties of the Goods that are beyond the standard production specifications; i.e. the fitness of the Goods for any specific purpose determined by the Buyer;

8.2.4. Any reimbursement of expenses, production losses, lost profit, limitation of use, loss of contracts or any other subsequent economic or indirect losses suffered by the Buyer as a result of any defects in the Goods or our other defective performance of obligations under the Contract, or which could have occurred due to the actions or omissions of us;

8.2.5. To any third party for any damage or loss caused to third party directly or indirectly by the Goods as a result of their operation, use or otherwise, regardless of whether such damage or loss occurs due to a defect in the Goods or otherwise; the Buyer shall release us from any claims arising from any such damage or loss.

## **9. Limitation**

9.1. The limitation period for claims based on material defects and defects of title shall be 12 months from delivery. The provisions of 7.4. and 7.5. of these GTCS shall apply accordingly to notification and removal of such defects.

9.2. The above limitation periods shall also apply to contractual claims for damages of the Buyer which are based on a defect of the Goods. Other Buyer's claims 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 agreement's conclusion, it 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 shall keep strictly confidential all information (in particular data and documents, including, but not limited to: plans, lists, drafts, business or project documentation, reports, agreements or contractual relations, forms, policies and procedures, price formation data, information related with certain processes, technologies or theories, financial data, know-how, personal data, trade secrets) 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 the agreement – (also by our service providers) during the term of the agreement and thereafter and – unless absolutely necessary for the performance of the agreement – not to record it, disclose it to third parties or to exploit it itself. 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 undertake any legal steps available in view of protection of our interests.

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.

- 11.4. In case of any infringement of the obligation of confidentiality by the Buyer, the Buyer shall take any and all necessary steps to mitigate the potential impact of such infringement. The Buyer shall also inform us about such infringement in writing without undue delay.
- 11.5. Should the Buyer breach any of its obligations set in this Section 11 of the GTCS, we are entitled to the contractual penalty in the amount of CZK 250,000 (in words: two hundred fifty thousand Czech crowns) for each infringement. We are also entitled to claim supplementary damages pursuant to general provisions of the Civil Code, when the damage incurred by the Buyer in connection with the infringement of the confidentiality obligation is higher than the reserved contractual penalty.
- 11.6. The obligation of confidentiality according to this Section remain unaffected after the end of cooperation between us and the Buyer.

## **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, Germany, Czech Republic 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 and Czech law.

## **13. Severability**

If any clause of these GTCS (or part of any clause) is found to be invalid, illegal or unenforceable, that clause or part-clause shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other clauses of the GTCS shall not be affected. If any invalid, unenforceable or illegal clause of these GTCS would be valid, enforceable and legal if some part of it were deleted, the clause shall apply with the minimum modification necessary to make it legal, valid and enforceable. The same applies in case of contract gap.

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

- 14.1. The law of the Czech Republic 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.
- 14.2. The parties agreed in compliance with the Section of 89a of the Act No. 99/1963 Coll., on civil court proceedings, as amended ("CCP"), that place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship – including international - shall be District Court in Pelhřimov, Czech Republic, respectively by Regional Court in České Budějovice, Czech Republic, as the court of the first instance. The choice of place of jurisdiction is concluded as non-exclusive, the parties shall also be entitled to bring suit at the place determined by the relevant provisions of the CCP. Overriding statutory provisions, in particular on exclusive jurisdictions, shall remain unaffected.