

# LENZE A/S

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY SEPT. 2020

### 1. APPLICATION

Any sale, delivery, installation, repair, provision of consultancy service or other service carried out by Lenze A/S is governed by these general terms and conditions of sale and delivery, which are deemed to be an integral part of the contract between Lenze A/S and the Customer.

In the event of inconsistency with the Customer's general terms of trade, Lenze A/S' general terms and conditions of sale and delivery shall prevail.

### 2. CONCLUSION OF CONTRACT

The Customer's written acceptance of Lenze A/S' offer shall only be binding on Lenze A/S once the written acceptance has come to Lenze A/S' knowledge. If the Customer's answer to Lenze A/S' offer is oral, the Customer's order shall only be binding on Lenze A/S once the order confirmation has been issued to the Customer. Any previous contact to the Customer should only be considered an invitation to the Customer to make an offer.

The items for sale are the products and services appearing from Lenze A/S' offer. Lenze A/S is therefore only under an obligation to supply the products and services appearing from the offer. This also applies in the event of any inconsistency between Lenze A/S' offer and the Customer's acceptance of the offer.

In any event, the Customer is solely responsible that the technical specifications for the products agreed with Lenze A/S entail that the products are suited for the intended purpose by the Customer.

Lenze A/S reserves the right to alter its products without prior notice provided that such alteration does not alter agreed technical specifications for the products.

Appendices supplied in connection with offers made are the property of Lenze A/S. The material may not be misused or passed on to a third party, and on request must immediately be returned to Lenze A/S if the offer does not result in an order.

### 3. TECHNICAL INFORMATION

Information and data in Lenze A/S' brochures, catalogues and other sales and tender material is only indicative, and Lenze A/S reserves the right to change this information and data without any prior notice.

### 4. PAYMENT AND INTEREST

The invoice amount must be paid in full in all circumstances. Consequently, the Customer has no right of set-off against the purchase price in respect of any claim which the Customer may have against Lenze A/S.

Payment terms are current month plus 15 days for Customers, to whom Lenze A/S has previously delivered. Products ordered by Customers to whom Lenze A/S has not previously delivered must be paid cash on delivery.

If agreed in writing with Lenze A/S, in the event of certain large production orders, the purchase price shall be paid as follows:

- 1/3 on placing the order,
- 1/3 on delivery, and
- 1/3 on commissioning, however no later than 30 days after the agreed commissioning.

Lenze A/S charges extra for minimum order value, to the effect that minimum DKK 500 shall always be invoiced. The extra charge is invoiced together with the purchase price.

Lenze A/S also invoices for packaging according to its applicable price terms. The invoicing is made together with the purchase price. Packaging is not accepted for return.

If the Customer fails to pay an invoice on the due date, interest shall be charged at 2% of the amount due at any time, starting from the due date of the invoice.

In the event of the Customer's breach, Lenze A/S reserves the right to cancel the agreement and take back the delivered products, see clause 6 below on retention of title, and/or to claim damages.

### 5. PRICE CHANGES

All Lenze A/S' offers are based on the applicable exchange rates, prices of materials, labour costs, rates of duty and government taxes at the date of the offer.

Lenze A/S reserves the right to alter the agreed prices in the event of any changes in foreign exchange rates, rises in prices of materials, rises in wages, government intervention, etc. which are beyond Lenze A/S' control.

### 6. DELIVERY, PASSING OF RISK, AND RETENTION OF TITLE

Delivery, installation and/or provision of consultancy service and other service take place as agreed with the Customer. In general, all products are delivered "Ex Works" under INCOTERMS 2020. The risk for the products shall pass to the Customer on delivery.

Lenze A/S does not take out transport insurance unless it is specified in a written agreement between Lenze A/S and the Customer.

Lenze A/S reserves the right of ownership in the products delivered until the full amount, see clause 4, has been paid to Lenze A/S. If the products are incorporated into or joined together with another/other product(s), the retention of title is maintained at a value of the total product, corresponding to the value of the product delivered by Lenze A/S at the time of sale.

### 7. RIGHT OF USE OF SOFTWARE

If a delivered product contains software, the Customer shall in connection with the purchase of the product acquire a right of use only in respect of that software. The Customer shall not acquire any ownership or other rights in respect of the software.

### 8. DELAYS AND DEFECTS

Delayed delivery does not entitle the Customer to termination, unless the Customer after the expiry of the delivery date has issued a written notice giving a reasonable time-limit for delivery.

Lenze A/S is not responsible for the Customer's direct or indirect losses in the event of delayed delivery.

If within 24 months (counted as from the delivery), a defect is established in a product and/or provision of consultancy service or other service carried out by Lenze A/S, and the defect is due to negligence on the part of Lenze A/S, and the cause of the defect can be ascribed to circumstances before delivery (antecedent defect), Lenze A/S may at its own discretion remedy the defect or make a proportionate reduction of the purchase price. If Lenze A/S decides to carry out remedial action, the Customer is under an obligation to

return the defective part(s) to an address mentioned by Lenze A/S. Return must be made carriage paid. If the defective part(s) cannot be returned, remedial action shall be carried out on site. Lenze A/S' travelling and accommodation expenses in connection with such remedial action are paid by the Customer. The Customer's remedies for breach are limited accordingly.

The Customer can in no circumstances invoke defects if the defect can wholly or partly be attributed to the Customer, including without limitation the Customer's operating errors, failure to clean or maintain the products, and ordinary wear and tear. Neither can a defect be invoked by the Customer in case of the Customer's failure to follow Lenze A/S' installation, operation and maintenance instructions.

It applies to delivered software that Lenze A/S is not responsible for defects, including any hidden defects, unless the Customer can prove that Lenze A/S acted grossly negligent.

Lenze A/S is in no circumstances liable for any loss or costs, including any direct loss, operating loss, loss of profit or other indirect loss suffered by the Customer as a result of defects or faults in the delivered products, installation and/or provision of consultancy service or other service.

## 9. TIME ALLOWED FOR COMPLAINTS

Immediately and no later than 8 days after receipt of the delivered products or services, the Customer must inspect the delivery and, in the event of defects at the time of the inspection or later, in writing notify Lenze A/S hereof.

The Customer shall forfeit all its remedies for breach if the written complaint is not received by Lenze A/S within 7 days from the date when the defect became or ought to have become known to the Customer.

## 10. RETURN

Sold goods are only taken back upon prior written agreement with Lenze A/S and against a return charge. A return charge of 15% of the invoiced amount is charged for return of components on stock, such as electronic controls, in undamaged original packing and fully saleable condition, and a 40% return charge is charged for returning of components on stock without original packing. The return charge amounts to min. DKK 500. Products for inspection are taken back within 4 weeks and only in undamaged original packing and fully saleable condition. All freight charges, handling costs, etc. are paid by the Customer, and Lenze A/S may offset these costs in the Customer's claims against Lenze A/S, if any. Forwarding of returned products to Lenze A/S is made for the Customer's expense and risk.

## 11. BUILDING SUPPLY CLAUSE

In so far as - and only to the extent that - delivered products are used for building projects in Denmark, the delivery is subject to the following Building Supply Clause:

The supplier's liability for defective deliveries shall expire 5 years after the delivery of the building project of which the delivery forms part. However, if delivering to storage or resale, the supplier's liability shall expire no later than 6 years after the delivery was made to the buyer.

If it is proven that a claim regarding defective deliveries cannot - or only with great difficulty can - be advanced against the supplier's buyer or subsequent buyers, it is acknowledged that the claim may also be raised directly against the supplier. In such circumstances, the supplier may only be held liable for defects to the extent that the supplier's own delivery is defective, and moreover only to the extent it follows from the supplier's own contractual relationship with his buyer.

However, in any event, the supplier shall accept that legal action can be brought against the supplier along with the buyer or subsequent buyers in connection with the parties' mutual relationship. The ensuing case shall be heard by the Danish Arbitration Tribunal for Building and Engineering.

## 12. PRODUCT LIABILITY AND INDEMNIFICATION

Lenze A/S is not liable for any damage to real or personal property occurring while the sold products are in the Customer's possession.

Lenze A/S is not liable for damage caused by the products etc. delivered by Lenze A/S to products manufactured by the Customer, or to products in which they form part, or for damage to real property or goods caused by these products as a result of Lenze A/S' products etc.

Lenze A/S' liability for defects in Lenze A/S' products, installation, and/or provision of consultancy service or other service (product liability) is in any event limited to a maximum of DKK 7.5 million per damage or series of losses arising from the same delivery (in Danish: "serieskade").

In no event is Lenze A/S liable for any operating loss, loss of profit or other financial consequential losses.

The above limitations on Lenze A/S' liability do not apply if Lenze A/S has acted grossly negligent.

The Customer must indemnify Lenze A/S to the extent that liability is imposed on Lenze A/S by a third party for such damage and such loss for which Lenze A/S, see above, is not liable vis-a-vis the Customer, including for legal costs.

If a claim for damages is made by a third party against either party under this clause, that party must give the other party prompt notice of such claim. Lenze A/S and the Customer have a mutual obligation to accept legal action being brought before the court or arbitration tribunal which hears the claim for damages raised as a result of any damage or loss allegedly caused by Lenze A/S' products, installation, and/or provision of consulting service or other service. However, the mutual relationship between Lenze A/S and the Customer shall also in this case be decided in accordance with Danish law, including these terms and conditions of sale and delivery.

## 13. FORCE MAJEURE

In the event of force majeure, Lenze A/S shall be entitled, without liability to the Customer, to cancel the relevant sale, installation, repair, provision of consultancy service or other service.

## 14. DELIVERY OF DUAL USE GOODS

The customer is obliged to comply with all applicable national and international export controls and sanctions regulations, in particular the ones of the United Nations, the European Union, Germany and the United States. Further, the supply of listed dual use items is strictly limited to imports for free circulation into the customer's jurisdiction. Imports into free zones or free warehouses are strictly prohibited. This obligation applies only insofar as it does not lead to a violation against EU or German blocking statutes.

## 15. CHOICE OF LAW AND JURISDICTION

The contract between Lenze A/S and the Customer, including the interpretation and judicial implication of these terms and conditions of sale and delivery, shall be governed by Danish law.

Any dispute between Lenze A/S and the Customer must be heard by the Danish courts, and the court of first instance shall be the Court of Glostrup (in Danish: "Retten i Glostrup"). However, this clause does not apply to clause 11, last sentence.

If the Customer is domiciled outside EU/EEA, any dispute between Lenze A/S and the Customer shall be settled by arbitration at the Danish Institute of Arbitration in accordance with the rules adopted by that Institute and in force at the time of commencement of the arbitration proceedings. If the disputed amount does not exceed DKK 1 million / EUR 135,000, the dispute shall be decided by one arbitrator.