

费斯托（中国）有限公司销售条款与条件 Terms and Conditions of Sale of Festo (China) Ltd.

1. 总则 General

- 1.1 费斯托（中国）有限公司（以下简称“费斯托”）提供的所有交付物与服务（包括软件销售）均以下列销售条款与条件为准。若任何客户提交的任何订单中包含与本处内容不一致的条款，该条款将被明确撤销。除非上述订单中的条款获得费斯托的书面同意，否则不对费斯托享有法定约束力。

All deliveries and services from Festo (China) Ltd., including the sale of software, are subject to the following terms and conditions of sale. Any conditions in any order given by any customer which are inconsistent with these conditions are expressly revoked. Such conditions shall not be legally binding for Festo unless they have been agreed to in writing by Festo.

- 1.2 客户下达订单或接受费斯托交付的货物即代表客户认可本销售条款与条件。
The placing of an order or acceptance of goods delivered by Festo shall constitute the customer's agreement to these Terms and Conditions.

2. 报价与交货 Quotation and delivery

- 2.1 费斯托在线商城所展示的商品和服务并不构成签订合同的要约，仅代表向客户发出下采购订单的邀请。

The goods and services displayed on the Festo Online Shop do not constitute an offer to conclude an agreement, but only represent an invitation to the customer to place a purchase order.

- 2.2 除非报价带有时限，所有的报价须经确认才有效。费斯托的订单确认函构成合同依据以及交货范围的确定因素。在客户要求特定投标的情况中，上述规定亦适用。客户下达的订单对客户享有约束力，在费斯托提交订单确认函后，视作订单已被费斯托接受。在订购产品目录内组件的情况中，若费斯托连同所开具的发票以及货物一并提交订单确认函，也应视作费斯托按时提交订单确认函。

Unless a quotation carries a time limit, all quotations shall be subject to confirmation. Festo's written order confirmations shall form the basis of the contract and determines the scope of the delivery. The foregoing also applies where the customer requests a specific tender. Orders placed by the customer are binding on the customer and shall be deemed accepted by Festo upon Festo's issuance of an order confirmation. This shall be deemed to have been presented in due time in the case of catalogue components if presented together with the issued invoice and the delivery.

- 2.3 如果费斯托需要变更设计或者修改技术数据和性能特性，且该等变化符合行业惯例，或属于非实质性变化且客户接受这些变化被认为是合理的，则费斯托保留出于技术进步的的目的进行修改的权利。上述权利同样适用材料和规格的选择。

Festo reserves the right to vary the design and make changes to technical data and performance characteristics for the purpose of technical progress insofar as these deviations are in accordance with industry practice, or if the changes are not substantial and it is reasonable for the customer to accept them. The above right shall apply to the selection of materials and specifications.

- 2.4 连同招标书或订单提交的任何文件（例如提交给费斯托的图纸、规格、材料、样品、工具或类似物品）仍归客户所有。费斯托在编制和出具报价单时，必须以上述文件为准。若之后须对招标书以及费斯托的报价单进行改动，必须在下达订单时以书面方式注明改动内容。

Any documentation submitted with the request for tender or an order, such as drawings, specifications, material, samples, tools, models or similar and made available to Festo, shall remain the property of the customer. These are binding for the preparation and issue of the Festo quotation. Any subsequent variations relating to the initial request for tender and the Festo quotation must be specified in writing when ordering.

- 2.5 费斯托以类似上述方式添加至报价单的任何文件，其所有权仍属于费斯托。客户承诺不会将此等文件用于任何其他合同或将其复制或提供给第三方。

Any documentation added by Festo to a quotation in a manner similar to that mentioned above shall remain the property of Festo. The customer undertakes not to use this documentation for the purpose of any other contracts or to reproduce or make it available to third parties.

- 2.6 任何明显失误、印刷错误、计算错误、拼写错误或核算错误，不对费斯托享有约束力，亦不得致使客户有权要求索赔。

Any apparent mistakes, printing, computational, spelling or calculation errors shall not be binding on Festo and shall not give the customer the right to claim for damages.

- 2.7 若费斯托为特定产品配有相关文件（如操作说明等），客户可通过费斯托官网(www.festo.com)免费下载获取。若客户要求，费斯托可在额外收费的基础上向客户提供上述文件的印刷版。

Insofar as Festo have documentation (e.g. manuals, etc.) for particular products, this will be available to customers as a free download from the Festo website (www.festo.com). If requested by the customers, Festo may provide a printed version of such documentation at an additional cost.

3. 价格与支付

Prices and payment

- 3.1 货物及服务（如维修、组装等）价格以费斯托订单确认函为准。该价格为不含税的净价，费斯托开具的发票金额将包含货物及服务净价金额和增值税金额。

Prices for goods and service (e.g. repair, assembly, etc.) shall be set forth in Festo's order confirmation, which are net and exclusive of tax. Applicable VAT shall be included in the invoice.

- 3.2 若客户要求加急生产、加急配送、特殊包装，或发生其他导致原定价依据变化的情况，费斯托保留调整相应价格的权利。

If the customer requests urgent production, urgent delivery, special packaging, or if other circumstances arise that result in a change to the basis of the original price, Festo reserves the right to adjust the price accordingly.

- 3.3 客户负有在约定时间内付清所有到期款项的责任。不允许代扣任何款项或抵扣潜在的反索赔金额，除非该反索赔金额已被认可或依法确定。

The customer is obligated to make full payment within the agreed period. The withholding of payments or offsetting of potential counterclaims is not permissible other than in the case of recognised or legally determined counterclaims.

- 3.4 若客户逾期付款，则其所有货款均应立即到期应付，同时，客户应向费斯托支付逾期付款违约金。若付款逾期超过 30 日，费斯托还有权取消授予客户的信用期，后续客户订货时，须将先前货款全部结清并采用现金结算。全部货款结清前，费斯托有权冻结客户及其关联方的任何订单或发货。

In the event of overdue payment by the customer, all outstanding amounts shall become immediately due and payable, and the customer shall pay Festo liquidated damages for delayed payment. If the payment remains overdue for more than 30 days, Festo shall further have the right to cancel the credit period granted to the customer. All debt shall be fully paid up before subsequent orders. Festo shall also be entitled to suspend all orders or deliveries for the customer and its affiliates until full payment is made.

4. 交货期

Delivery period

- 4.1 订单确认函中规定的交货日期仅在所有技术细节与商业细节均在交货日期之前得以明确的前提下具有约束力。客户按照约定正确履行其义务或保证是费斯托遵守交货时间的前提。客户承诺提供一切必要的材料，以便在交货日期前履行订单。若交付物在上述日期之前离开费斯托的工厂或费斯托告知客户其已做好发货准备，则应视作上述发货日期得以执行。

The date specified in Festo's order confirmation is binding only if all the technical and commercial details have been clarified by that time. The proper performance by the customer of its obligations or guarantees as agreed is the prerequisite for Festo's compliance with delivery times. The customer undertakes to provide the materials essential for the order to be executed on time. The delivery date is deemed to have been adhered to if the object of delivery has left the Festo works by the said date or if the customer has been advised of its readiness for shipment.

- 4.2 费斯托按时履约的前提是自身能够获得及时、足额的供货保障。如该前提条件未能满足，则费斯托有权全部或部分解除合同或订单，且不因此承担任何违约责任，但因费斯托自身原因导致供货中断的情况除外。

Festo's performance of its obligations on time is upon its ability to obtain timely and adequate supplies. If the preconditions are not met, Festo shall have the right to terminate the contract or order in whole or in part without being liable for any breach of contract, except where the supply disruption is caused by Festo itself.

4.3 费斯托有权分批交货或提前交货。
Partial and early deliveries by Festo are permissible.

4.4 若客户要求延迟发货或在双方约定的发货日期届至时怠于提货，则费斯托有权单方交货或在一段相应延长的期限后向客户交货，并向客户收取仓储费用；或在一段合理的期限后另行处置交付物。同时，费斯托有权决定对应货款是否立即到期应付。

If the customer requests delivery postponement or fails to take delivery upon agreed delivery date, Festo shall be entitled to deliver unilaterally or to deliver to the customer after a reasonable period and to charge the customer storage costs; or, after a reasonable period to dispose otherwise the delivery item. Festo shall also be entitled to determine whether the corresponding payment shall become immediately due and payable.

5. 接受 Acceptance

5.1 在货抵双方约定交货地点 2 个工作日内，客户应按合同及订单确认函的规定对货物型号、数量、包装、外观、规格等方面进行验收并接受该货物。如客户未在前述时间内提出任何异议也未在规定时间内签收，应视为已接受货物并验收合格。

Customer shall inspect the type, quantity, package, surface quality, specification etc. within 2 working days after the goods arrive the place agreed by both parties according to the provisions of the contract and order, and accept the goods. If customer raises no objections or fails to accept the goods within the aforementioned period or to sign for acceptance within the specified time, it shall be deemed that the goods have been accepted.

5.2 涉及软件销售，在完成软件项目部署及现场调试后，客户应在 3 天内确认符合使用需求并接受该软件或服务。如客户到期未提出任何异议的，将视为已接受软件或服务并验收合格。

Regarding the sale of software, the customer shall confirm within 3 days that the software or service meets the usage requirements and accept it after the completion of the software project deployment and integration. If customer raises no objections within the specified time, it shall be deemed that the software or service has been accepted.

6. 风险转移及所有权保留 Passage of risk and retention of title

6.1 发货后，货物毁损灭失的风险由客户承担。若客户无正当理由拒绝或怠于提货的，相关货物的一切风险在费斯托向客户发出货物发货就绪通知时转移给客户。

Upon delivery, the risk of loss or damage to the goods shall pass to the customer. In case the customer refuses or fails to take delivery without justifiable reason, all risks related to such goods shall transfer to the customer upon Festo's issuance of the goods readiness notice.

6.2 在客户全额结清所欠货款（包括客户在与费斯托建立业务关系之前欠下的任何余款，不论其源自何等法定来源）之前，所供货物的所有权仍归费斯托所有。费斯托执行上述保留货物所有权的行为不得被视作费斯托退出合同。相反地，上述行为应作为费斯托在销售合同项下享有的各项权利的保障并且也是对财产收回权的一种补充，当然也包括获得损害赔偿和利润损失赔偿的权利。

The goods supplied shall remain the property of Festo until all debts owed by the customer are settled in full including any balances existing from the business relationship with the customer irrespective of statutory source. The enforcement of our right to retain title should not be regarded as a withdrawal from the contract. On the contrary, it ensures our rights from the contract of sale in addition to Festo's entitlement to the return of Festo's property, in particular to the reimbursement of damages and lost profits.

6.3 尽管有前款规定，不论何种原因而导致退货或换货时，退换产品的所有权于该合同解除时即自动从客户处转移至费斯托。

Notwithstanding the provisions of the preceding paragraph, the ownership of the changed and returned goods shall automatically be transferred to Festo from the customer regardless of the cause.

6.4 在产品的所有权转移至客户后，有关产品的一切知识产权仍应属于有关许可人。

All relevant intellectual property rights related to the goods shall still be owned by the licensor after the ownership of the goods has been transferred to the customer.

7. 软件使用

Use of software

- 7.1 作为客户支付报酬的回报，客户应获得使用费斯托各类型软件及其相关资料的非专属、不可转让且具有一定期限的权利。客户有权将上述软件用于费斯托的订单确认函或其他单独文件中指定的硬件产品上，禁止客户在许可范围外的其他硬件产品上安装或使用。本条所指的使用包括以执行软件和处理数据为目的的加载、显示、运行、传输和存储软件等行为。费斯托仍应享有上述软件的版权以及其他一切知识产权。客户不得出于数据备份之外的其他目的复制上述软件的任何部分。客户不得删除或更改软件中的版权公告。

In return for remuneration, the customer shall be granted a non-exclusive, non-transferrable and time-limited right to use Festo's all types of software and any relevant documentation. The customer is licensed to use the aforementioned software solely on the hardware products specific in Festo's order confirmation or other separate documents, while any installation on or use for other hardware product outside the licensed scope is not permitted. The term "use" as referred to herein includes such acts as loading, displaying, running, transferring and storing the software for the purpose of executing the software and processing data. Festo shall retain the copyrights and all other intellectual property rights in the aforementioned software. The customer may not duplicate any part of the software for purposes other than data backup. Copyright notices in the software shall not be removed or altered.

- 7.2 客户有权在单独的数据存储设备上制作软件和相关文档的备份副本，这些副本应标有费斯托的原始标签（包括版权标识）。只有在客户最初获得的原始副本老化或损毁的情况下，才允许其使用备份副本，且只能将该备份副本用于软件对应的特定硬件产品。客户对备份副本的使用也应遵守前述规定。除此以外，未经费斯托同意，客户无权进一步全部或部分复制软件和/或相关文档，也无权将其安装在或用于许可范围外的其他硬件上。

The customer is authorised to make a backup copy of the software and the corresponding documentation on separate data storage devices, which shall be labelled with the original labelling from Festo (including the copyright mark). Use of the backup copy is only permitted in the case of deterioration or destruction of the copy originally acquired by the customer and only for the specific hardware product to which the software is assigned. The customer is also subject to the above provisions with regard to the use of the backup copy. In other respects, the customer shall not be entitled, without Festo's consent, to make further copies of the software and/or documentation or parts thereof, to install them on and/or use them for other hardware outside the scope of the license.

- 7.3 未经费斯托事先书面同意，客户无权编辑、更改或以其他方式修改软件，不得将其与特定硬件产品以外的设备一同使用，不得以其他形式对其进行反向工程（反编译）。客户不得删除、规避或修改任何复制保护机制、服务于数字版权管理（DRM）的程序元素、用于识别软件或删除软件的安全代码，或未经费斯托事先书面同意，删除关于制造商属性、版权或其他财产权利的任何信息。

Without the prior written consent of Festo, the customer shall not be entitled to edit, change or otherwise modify the software, use it in conjunction with devices other than the specific hardware product, reverse engineer (decompile) it in another form of representation, remove, circumvent or modify any copy protection mechanisms, program elements serving digital rights management (DRM), security codes or features serving to identify the software or to remove any information in the software and the associated documentation about the manufacturer's properties, copyrights or other property rights of Festo without the prior written consent of Festo.

- 7.4 将软件转让给第三方之前，须获得费斯托明确的书面同意，且相关第三方必须同意本销售条款与条件规定。无论第三方是否同意，若第三方违反规定给费斯托造成损失的，都不妨碍客户向费斯托承担连带责任。

Any transfer of the software to a third party requires Festo's explicit prior written consent and the relevant third party must agree to comply with these Terms and Conditions. In any case the customer shall be jointly and severally liable to Festo for the losses caused by such third party's breach.

- 7.5 若违反本销售条款与条件第 7 条，客户应支付相当于十倍订单金额的违约金。不得使用任何潜在的索赔来抵消上述违约金。一经要求，客户应立即归还软件及其相关资料。

In the event of a violation of Section 7 of these Terms and Conditions, the purchaser shall pay a contractual penalty amounting to ten times the order value. This contractual penalty shall not be set off against any potential claims for compensation. The software and associated documentation must be returned immediately on request.

- 7.6 上述条款不适用于根据客户提供的技术参数专门为客户开发的专属软件。此类软件由费斯托作为按合同制造的全套控制系统的其中部分开发与定制，上述控制系统使用有来自费斯托方面适用于一系列应用程序并按照合同性能要求进行改制的模块化软件模块（标准软件模块）。

The conditions described above do not apply to exclusive customer-specific software developed on the basis of specifications provided by the customer. This software is developed and customised by Festo as part of a contractually produced complete control system making use of modular software modules (standard software modules) from Festo suitable for a wide range of applications and adapted to the contractual performance requirements.

- 7.7 在客户全额付清定制软件的采购价款后，费斯托应将软件使用权按约定转让给客户，但客户不享有组成定制软件的各个基础标准软件模块的任何权利。除非另有约定，费斯托有权为其他客户定制并提供类似的软件解决方案。费斯托保留将定制软件用于内部用途的基础使用权。

Upon full payment by the customer for the customised software, Festo shall transfer the right to use the software as agreed upon, but the customer shall have no rights to the individual basic standard software modules forming the basis of the customised software. Unless otherwise agreed, Festo retains the right to develop and offer similar software solutions for other customers. Festo retains a basic right to use the customised software for internal purposes.

- 7.8 对于定制软件，费斯托应保证其符合产品说明、费斯托订单确认函、共同确定的文件资料或工作说明中规定的功能和特性。

For customised software, Festo shall warrant compliance with the functions and features stipulated in the specifications, the Festo's order confirmation or acceptance letter, documentation or the jointly defined work/procedure descriptions.

- 7.9 对于定制软件，还应适用以下条款：

For customised software, the following provisions shall also apply:

7.9.1 开发流程

Development process

- a、客户应提供详细的技术参数和需求说明，作为软件开发的基础。
Customer shall provide a detailed description of the technical parameters and requirements as a basis for software development.
- b、费斯托将在收到客户的需求文档后，制定详细的项目计划，包括开发时间表、实施计划和资源分配等。
Festo will develop a detailed project plan including a development schedule, implementation plan and resource allocation upon receipt of the customer's requirements document.
- c、开发过程中，如果客户有需求变更，应当提前 7 天告知费斯托，同时费斯托会向客户出具需求变更说明。
Any additional requirement for software functionality by the customer shall not be treated as a change, but shall initiate a new software development process.

7.9.2 变更请求

Change request

- a、客户在软件开发过程中，如需对原始需求进行变更，应以书面形式向费斯托提交变更请求。
If the customer needs to make change to the original requirements during the software development, the customer shall submit a written change request to Festo.
- b、变更请求应详细说明所需的变更内容、理由及其对项目时间表和成本的潜在影响。
The change request shall detail what changes are required, the rationale for the changes, and the potential impact on the project schedule and cost.
- c、客户对于软件功能的新增需求不应视为变更，应作为新的软件开发流程。
Any additional requirement for software functionality by the customer shall not be treated as a change, but shall initiate a new software development process.

7.9.3 变更评估

Change assessment

- a. 费斯托在收到客户的变更请求后，应在合理时间内进行评估，并向客户反馈变更的可行性、影响及可能产生的额外费用。

Upon receiving a change request from customer, Festo shall assess it within a reasonable period of time and provide feedback to customer on the feasibility, impact and any additional costs that may be incurred.

- b. 评估结果应以书面形式通知客户，并包括对项目进度的影响分析。
The assessment results should be notified to the customer in writing and include an analysis of the impact on the project schedule.

7.9.4 变更确认

Confirmation of change

- a. 客户在收到评估反馈后，如同意变更，应签署变更确认书。
If the customer agrees to the change after receiving the assessment results, a written confirmation letter of change must be signed.
- b. 变更确认书应明确变更的具体内容、调整后的开发时间表及费用变更。
The confirmation letter of change shall identify the specific content of the change, the adjusted development schedule, and the change in cost.
- c. 只有在客户签署变更确认书后，费斯托才会开始实施变更。
Festo will only start implementing the change after the customer has signed the confirmation letter of change.

7.9.5 变更对项目进度的影响

Impact of change on project schedule

- a. 需求变更可能导致项目进度的延迟，不属于费斯托的违约情形，费斯托应及时向客户通报变更对交付时间的影响。
Change in requirements that may cause delay in the project schedule shall not be considered a breach of contract by Festo. Festo shall notify the customer in a timely manner about the impact of the change on the delivery time.
- b. 在变更确认后，双方应共同协商调整项目时间表，以确保项目的顺利推进。
After the change has been confirmed, both parties shall jointly agree to adjust the project schedule to ensure the smooth progress of the project.

7.9.6 验收条件

Conditions of acceptance

- a. 客户应在收到初步版本后进行测试，并在规定的验收期内（部署后 3 天内）向费斯托反馈测试结果。
Customer shall test the initial version of the software upon receipt and provide feedback to Festo on the test results within the specified acceptance period (within 3 days of deployment).
- b. 验收标准应包括功能完整性、性能指标、用户界面符合性以及其它双方共同确认的技术要求。
Acceptance criteria shall include functional integrity, performance indicators, user interface applicability, and other technical requirements mutually recognized by both parties.
- c. 若客户在验收期内未提出异议，则视为软件已通过验收。
If the customer raises no objections within the specified acceptance period, it shall be deemed to have accepted the software.
- d. 如发现不符合双方事先约定的问题，费斯托应在合理时间内进行修复，并重新提交给客户进行验收。
If any non-conformity with prior agreement of the parties is identified, Festo shall fix it within a reasonable time and resubmit the deliverable to the customer for acceptance.

7.9.7 其他条款

Other provisions

- a. 客户不得将定制软件的源代码或相关文档转让给第三方，除非获得费斯托的书面同意。
The customer may not transfer the source code or related documentation of customised software to a third party, except with the written consent of Festo.
- b. 费斯托保留定制软件的所有知识产权，客户仅享有使用权。

Festo retains all intellectual property rights in the customised software. The customer is granted a right to use it only.

- c. 如需对软件进行重大修改或升级，双方应签署新的合同或补充协议。
If major modifications or upgrades to the software are required, a new contract or supplemental agreement shall be signed by both parties.

7.10 如果软件发生错误，客户有义务向费斯托提供错误分析和后续执行所需的所有信息，并授予费斯托或其委托的人员不受限制地访问安装该软件的软件和系统的权限。错误消息应包含有关错误类型、发生错误的应用程序以及为更正错误而做的工作的信息。如果费斯托应客户要求进行分析，分析不存在费斯托有义务纠正的错误，费斯托有权根据其适用的小时费率向客户收取相应的费用。
In the event of error occurring, the customer shall be obliged to provide Festo with all necessary information for error analysis and subsequent performance and to grant Festo or the persons commissioned by Festo unrestricted access to the software and the system of the customer on which it is installed. An error report shall contain information about the type of error, the application in which the error occurred, and the work performed to correct the error. If Festo carries out an error analysis at the customer's request and it turns out that there is no error which Festo is obliged to remedy, Festo reserves the right to charge the customer based on Festo's applicable hourly rates.

7.11 费斯托不对下列情形中的软件错误负责：

Festo shall not be liable for any error in the software,

- a) 由客户方的应用程序错误引起、且可通过仔细查阅程序文件所避免的；本项也可适用于不存在备份措施或备份措施不足的情形；
which have been caused by application errors on the part of the customer and which could have been avoided if the program documentation had been consulted carefully; this also applies to non-existent or insufficient backup measures;
- b) 由病毒或其他不由费斯托负责的外部影响所导致的，如火灾、事故、停电等；
which have been caused by a virus or other external influences beyond Festo's responsibility, such as fire, accidents, power failure, etc.;
- c) 将软件用于费斯托指定的硬件产品以外的硬件产品，或用于费斯托认可的操作环境以外的操作环境的，或可归因于客户使用的与软件相关的其他制造商的硬件、操作系统或计算机程序故障的；
which are based on the fact that the software was used in connection with a hardware product other than that specified by Festo or in an operating environment other than that approved by Festo, or are attributable to faults in the hardware, the operating system or computer programs of other manufacturers which the customer uses in connection with the software;
- d) 客户或第三方未经授权更改软件的；
which are based on the fact that the software was changed by the customer or a third party without authorization;
- e) 客户或第三方通过非费斯托官方渠道获取或升级软件的。
which are based on the fact that the software was obtained or upgraded by the customer or a third party through non-official Festo channels.

此外，费斯托不对其他制造商免费提供的组件或模块（第三方软件）提供任何保证，尤其是能够与费斯托提供的软件一起使用的开源软件。

Furthermore, Festo shall not provide any warranty for components or modules supplied free of charge by other manufacturers (third-party software), in particular open source software, which can be used in connection with Festo's software.

7.12 双方确认，各项软件及服务费用的支付，均须严格遵循本销售条款与条件及销售合同既定的费用类别与支付流程开展。若客户希望享有现场部署及培训服务，除已支付的许可费用外，还需另行支付相应的部署服务费用。该部署服务费用的具体金额和支付时间，由双方另行协商确定，并通过签署书面协议予以明确；在书面协议未成功签署前，费斯托有权拒绝提供现场部署与培训服务。

Both parties confirm that payment for the software and services shall strictly adhere to the fee categories and payment processes set forth in these Terms and Conditions, and the sales contract. If the customer wishes to have on-site deployment and training services, the customer is required to separately pay the corresponding deployment service fees in addition to the paid license fees. The specific amount and payment schedule for such deployment service fees shall be determined by the parties through separate

negotiations and confirmed in a written agreement. Festo reserves the right to refuse to provide on-site deployment and training services until a written agreement has been successfully signed.

7.13 软件更新及升级

Software updates and upgrades

- a) 基于许可续费的更新升级：软件的更新升级服务存在不同情形。在许可续费的情况下，客户有权获取与之对应的标准软件更新升级服务，不再额外收取费用。此更新升级服务涵盖软件常规功能性优化、安全性提升等一般性迭代内容，具体更新事项以费斯托发布的官方说明或通知为准。

Updates and upgrades based on license renewals: There are different scenarios for software updates and upgrades. In the case of license renewal, the customer is entitled to receive the corresponding standard software update service without additional charge. This update service covers general iterations of the software such as routine functional optimizations, security enhancement, etc. The specific updates shall be subject to the official instructions or notifications issued by Festo.

- b) 客户定制化软件的更新升级：基于客户需求的客户定制化软件的更新升级，客户需根据实际开发工时另行支付费用。客户提出针对客户定制化内容的修改、优化、升级需求时，费斯托将评估可行性、开发工时等，并在评估完成后向客户出具费用明细清单，双方协商一致并签署书面协议后，费斯托即开始相关更新升级工作。

Updates and upgrades of customised software: For updates and upgrades to customised software based on customer needs, the customer is required to pay a separate fee based on the actual development hours. When the customer puts forward the modification, optimization and upgrading requirements for the customised content, Festo will assess the feasibility, development time, etc., and issue the cost breakdown list to the customer after the assessment is completed. Festo will start the relevant updating and upgrading work only after both parties reach a consensus and signed a written agreement.

8. 退货

Returned goods

- 8.1 除非经费斯托事前书面许可，客户不得退货。退货金额以退货时或发票日期上现行的产品价格为准。当发生退货时，费斯托保留对退货商品收取退货的所有运输费用、最低手续费、重检费以及为恢复商品的适合销售性而产生的任何额外费用，具体由费斯托确定。未经费斯托事先书面许可，擅自退货产生的风险和费用由客户自行承担。

No returns for goods will be allowed without Festo's prior written acceptance. Credit will be based upon prices of products in effect at time of return or time of invoicing. In the event of return, Festo reserves the right to impose a minimum charge on returned goods which is subject to shipping, handling, re-inspection and any additional expense incurred in restoring goods to saleable condition, as determined by Festo's inspection. Unauthorized returns are at the customer's own risk and expense.

- 8.2 对于软件销售，除非双方另有约定，费斯托对客户已订购的软件、服务及已支付的费用不接受任何退订或退款申请。客户应在使用、服务期限内使用软件、服务，费斯托并不因客户未实际使用提供其他替代或退款。

With regard to the sale of software, unless otherwise agreed, no cancellation or refund requests will be accepted for software and service ordered or paid by the customer. Customer shall use the software and services within the specified usage and service period. Festo shall not provide any substitutes or refunds for any unused software.

9. 保修申请

Warranty claims

费斯托保证其产品在向客户交货之日后 12 个月内不会出现任何材料缺陷和工艺缺陷。除非另有约定，费斯托不对产品的（客观）预期性能（如耐用性、功能性、兼容性）或某一特定用途的适用性做出进一步保证。客户应负责核查所购买的产品是否符合预期用途。依照本销售条款与条件第 14 条的规定，费斯托应对货物的质量缺陷、所有权的合法性及质量担保负责（但不对任何其他要求负责），具体如下：

Festo warrants its products to be free from defects in materials and workmanship, for a period of 12 months from the date of delivery to the customer. No further warranty with regard to (objectively) expected products (e.g. durability, functionality, compatibility) or fitness for a particular purpose, shall be granted unless otherwise agreed. The customer is responsible for checking whether the purchased products are suitable for

the intended use. Subject to the provisions in Section14 herein and excluding any further claims, Festo shall be liable for defects of quality and legality of title and warrants as follows:

9.1 质量缺陷:

Defects of quality:

- a) 因风险转移之前的情况产生的所有缺陷零件，一经发现，应由费斯托酌情进行维修或（通过提交无故障的零件）更换。但零件的磨损不享受保修。
All parts found to be defective as a result of circumstances prior to the transfer of risk shall, at the discretion of Festo, either be repaired or replaced by delivery of a faultless part. Excluded from this warranty shall be parts subject to wear.
- b) 费斯托软件被设计用于费斯托指定的硬件产品。费斯托将通过换货的方式满足保修申请。除非协议双方另有书面约定，费斯托并未担保软件及其数据结构不存在任何缺陷。
Festo software is designed to run on hardware products specified by Festo. Warranty claims shall be satisfied by means of a replacement. Unless otherwise agreed in writing, Festo shall not warrant that the software and its data structure are free of defects.
- c) 若涉及定制软件，费斯托应担保定制软件符合技术参数、订单确认函、相关资料或费斯托与客户制订的工作/程序说明规定的各项功能与特点。费斯托并未担保上述程序被用于客户指定的各项应用程序时不会出现任何缺陷，尤其是费斯托在开发或验收时并不知晓的或并未进行测试的应用程序。
In case of customised software, Festo shall warrant compliance with the functions and features stipulated in the specifications, the order acknowledgement, documentation or the work/procedure descriptions worked out together between Festo and the customer. Festo shall not warrant that such programs are free of defects in relation to the use of said programs in all applications intended by the customer, in particular not such applications of which Festo was not aware or did not test at the time of development/acceptance.
- d) 客户应立即以书面方式通报所有缺陷，但最晚不迟于收到货物后 8 日。
The defects shall be notified immediately in writing, however, at the latest within 8 days after receipt of goods.
- e) 若客户提交的缺陷投诉有合理理由，费斯托将承担相关的直接费用-前提是缺陷投诉成立-包括替换件的成本、替换件的运输成本以及合理的卸载与重新安装费用，前提是上述程序并未导致客户向费斯托提出不合理要求。
If the defect complaint is justified, Festo shall bear of the immediate costs – insofar as the complaint proves to be founded – the cost of the replacement part, shipping thereof as well as reasonable costs related to uninstallation and reinstallation, insofar as such procedure does not result in unreasonable demands made on Festo.
- f) 客户应向费斯托提供进行维修或换货的时间和机会，否则费斯托无须承担因此产生的后果。若情况紧急，操作安全性存在危险，为防止出现重大损害，在获得费斯托的事前许可后，客户有权自行或委托第三方纠正产品缺陷，并向费斯托报销必要成本。若客户或某一第三方进行的维修作业不合格，费斯托无须对此产生的任何后果承担责任。
The customer shall allow Festo time and opportunity to effect the repair or replacement delivery, otherwise Festo shall not be held liable for the ensuing consequences. The customer, with Festo's prior consent, shall have the right to rectify defects itself or have them rectified by a third party in such urgent cases where there is a danger to operational safety and to prevent extensive damage, and to claim reimbursement of necessary costs from Festo. Should the customer or a third party carry out unqualified repairs, Festo shall not be held liable for any consequences thereof.
- g) 其他保修申请应按照本销售条款与条件第 14 条的规定进行裁定。
Other claims shall be determined as stipulated in Section14 herein.
- h) 此外，费斯托不对基于以下理由的任何损害承担责任：客户或第三方不适宜或不适当地使用、储存产品或错误安装产品的行为、未经授权的维修及改装行为、自然磨损、错误的或疏忽的操作行为、费斯托能力外的化学效应与电场效应等以及将产品用于非设计用途或不按照费斯托相关资料（例如使用手册、产品目录表）中包含的信息和详细说明使用产品的行为（无论上述信息以何等方式提供），尤其是与费斯托产品的使用条件相关的信息（例如润滑说明、压缩空气质量/其他操作要求、环境条件等）。另外，若客户或第三方在未经费斯托事前许可且不具备任何其他正当理由的情况下擅自改动操纵装置/软件，保修服务将无效，即使是某一未经改动的部

件发生错误。

In addition, Festo shall not be held liable for any damage on foot of the following grounds: unsuitable or improper use or storage, faulty installation by the customer or a third party, unauthorised repair attempts and modifications, natural wear, erroneous or negligent handling, chemical effects and electrical effects etc. outside our power, as well as in case of non-intended use and non-compliance with our information and details out of our documentation (e.g. user manuals, catalogue sheets), irrespective of the method of such information, in particular in relation to the conditions of use of our products (e.g. lubrication instructions, quality of pressurised air/of other operational requirements, environmental conditions). In addition, the warranty shall be voided if the customer or third parties modify the control/software without Festo's prior consent and without any other justification, even if the error occurs in an unchanged component.

9.2 权利瑕疵:

Defects of title:

- a) 若使用交付物的行为侵犯他人的工业产权或版权，费斯托应自费为客户取得可大体上继续使用交付物的权利，或按照客户的要求对交付物进行改造，以消除上述侵权行为。

If the use of the delivery item infringes other's industrial property rights or copyrights, Festo shall, at its cost, obtain the right to principally enable the customer to continue to use the delivery item or to modify the delivery item in a manner acceptable to the customer so that the copyright infringement no longer exists.

- b) 若无法以经济合理性的方式或在合理的期限内实现上述工作，客户有权退出合同。同样，费斯托也有权退出合同。

Should this not be achievable in an economically reasonable manner or within a reasonable period of time, the customer shall be entitled to withdraw from the contract. Given the stipulated conditions, Festo also shall have the right to withdraw from the contract.

- c) 另外，费斯托应保障客户免于相关的版权所有人提出的任何无争议索赔或依法可主张的索赔。In addition, Festo shall indemnify the customer in relation to any non-disputed claim or legally asserted claim raised by the relevant copyright owners.

- d) 依照本销售条款与条件第 14 条的规定，在侵犯产权或版权的情况中，费斯托的上述义务是最终的。上述义务的适用前提是客户及时向费斯托通报第三方提出的任何产权或版权侵权索赔且客户合理支持费斯托进行上述索赔的答辩工作或允许费斯托对产品进行改造；费斯托有权自行处理所有的答辩活动（包括庭外和解）；上述权利瑕疵或侵权行为并非因客户下达的某一指示产生并且也并非因客户未经授权改造交付物的行为或未经授权使用交付物的行为造成。

Subject to Section 14 herein, the above stated obligations of Festo shall be final in relation to cases of infringement of property rights or copyrights. The aforesaid obligations shall be applicable only if the customer advises any property or copyright infringement claims raised immediately to Festo, the customer reasonably supports Festo in the defence of such claims or enables Festo to carry out modifications, Festo has at its disposal all defence actions including out-of-court settlements, the defect of title is not based on an instruction issued by the customer and the infringement is not caused by non-authorised modifications of the delivery item by the customer or non-authorised use of the delivery item by the customer.

10. 转售

Resell

除费斯托事先书面同意外，客户从费斯托采购的货物，仅限用于生产制造客户自身的产品，不得向任何第三方直接或间接转售（包括将产品的部件拆下转卖）。如客户违反此保证或费斯托有合理依据怀疑客户将违反此保证，费斯托有权拒绝接受该客户发出的订购信息并取消或中止客户及其关联方名下的全部或部分订单且无需承担任何赔偿责任，客户应还承担费斯托由此遭受的一切损失。在此情况下，非经费斯托书面明确，客户对费斯托已发货物仍需承担付款义务。

Unless Festo has given a prior consent in writing, the supplied goods can only be used to manufacture customer's own products, and the customer is not allowed to resell the supplied goods, directly or indirectly, to any third party, including resell the component(s) removed from the goods. If customer violates this term or Festo has reasonable grounds for doubt of customer's violating this term, Festo has the right to refuse to accept customer's orders and cancel all or any part of the order placed by the customer and its affiliates without liability, Under such circumstances, customer shall compensate for all losses incurred to Festo. The customer shall remain liable for make payment for goods delivered unless expressly permitted by Festo in writing.

11. 进出口限制

Import & export control

- 11.1 双方同意，货物的交付受限于任何地区或机构或国家（包括中国、联合国、欧盟和美国）对技术和产品实施的、可在费斯托所在司法管辖区内强制执行的所有适用的进出口管制或限制。客户确认，货物及所有相关的技术信息、文件和材料均不得违反上述管制或限制而直接或间接进口或出口、再出口、转运、交易、转移或转让。

The parties agree that the goods shall be delivered subject to all applicable import and export controls or restrictions imposed on technology and products by any country or organisation or nation, including China, United Nations, European Union and the United States, which are enforceable in the jurisdiction of Festo. The customer acknowledges that the goods and all related technical information, documents and materials may not be imported or exported, re-exported, transhipped, traded, diverted or transferred, directly or indirectly, contrary to such controls or restrictions.

- 11.2 一经费斯托要求，客户应按费斯托规定的格式和内容，向费斯托提供所有与进出口管制法律、法规和限制有关的相关证明，例如（但不限于）最终用户证明。

On Festo's request, the customer shall furnish Festo with all relevant certificates relating to import and export control laws, regulations and restrictions, such as, but not limited to, end-user certificates, in form and content specified by Festo.

12. 数据和个人信息保护

Data and personal information protection

费斯托与客户均应遵守适用于本销售条款与条件、不时生效的有关网络安全、数据安全、个人信息与隐私保护的法律法规及国家标准。如果客户向费斯托提供任何数据，尤其是个人信息数据，客户应保证在提供给费斯托之前已经取得了必要的同意及授权。费斯托确认仅得基于本销售条款与条件之目的合理需求，而使用或处理所提供之数据。费斯托收集、处理及储存客户提供的数据和个人信息的方式详见费斯托官网 (www.festo.com) 《Festo 数据保护声明》。

Both Festo and the customer shall comply with all applicable laws, regulations, and national standards concerning cybersecurity, data security, personal information, and privacy protection that are in effect from time to time and apply to these Terms and Conditions. If the customer provides any data to Festo, particularly personal information data, the customer warrants that it has obtained all necessary consents and authorizations prior to providing such data to Festo. Festo confirms that it will only use or process the provided data for purposes reasonably required under these Terms and Conditions. The way Festo collects, processes, and stores data and personal information provided by the customer is detailed in the "Festo Data Protection Statement" available on Festo website (www.festo.com).

13. 无法履约及违约

Impossibility of performance, default

- 13.1 若费斯托在风险转移前丧失履约能力，客户有权退出合同。若类似商品的订单无法得以履行、部分货物的交付无法进行并且客户有拒绝分批交货的合法理由，客户亦可解除合同。若客户选择不解除合同，客户有权享有相应的减价。

The customer may withdraw from the agreement should performance by Festo become impossible before the risk is passed. The customer shall also be entitled to withdraw from the agreement should, in the case of an order for similar goods, execution of part of the delivery become impossible and the customer has a legitimate interest in refusal of a partial delivery. Should this not be the case, the customer may reduce the consideration accordingly.

- 13.2 若出现仅可归责于费斯托的原因导致的延迟履约行为，且费斯托未能在客户向费斯托授予的合理延期内履约，客户有权在法律规定的范围内退出合同。若因客户过错而导致收货或验收延迟，客户应承担验收合格的后果和责任。

In the event of a delay of performance attributable solely to Festo, where the customer guarantees Festo a reasonable extension, the customer shall be entitled to withdraw from the agreement, within the scope of the statutory provisions, should the extension not be complied with. Should there be a delay of acceptance through the fault of the customer, the customer shall remain obliged to render a return service.

- 13.3 若客户因归咎费斯托的延迟情况蒙受损失，客户有权提出违约索赔。每延迟一周（不考虑进一步索赔），针对延迟的部分货物，费斯托应向客户支付相当于上述延迟货物部分价值 0.5%的违约金，违约金累计最高不超过该批延迟货物价值的 3%。

Should the customer incur damage caused by a delay for which Festo is responsible, the customer shall be entitled to claim liquidated damages for default. This liquidated damages shall amount to, for each full week of the delay and to the exclusion of further claims, 0.5 % and aggregately no more than 3 % of the value of the delayed part of the delivery.

- 13.4 因延迟交货而提交的进一步索赔在此予以明确排除。

Further claims as a result of late delivery shall be expressly excluded.

- 13.5 对于因客户违反本销售条款与条件而使费斯托所遭受之任何损失、损害、费用、开销、债务或索赔，客户同意就此向费斯托赔偿并保证不使费斯托遭受损害。

The customer hereby agrees to fully compensate Festo and hold Festo harmless from any losses, damages, costs, expenses, liabilities or claims arising out of customer's violation of these Terms and Conditions.

14. 责任 Liability

- 14.1 客户不得修改或删除产品上因不当使用而产生危险的警告标签。如果客户修改产品或将产品用于预期用途以外的目的，则应自行承担风险。

The customer shall not modify or remove existing warnings about dangers arising from improper use of the products. If the customer modifies the product or uses the product for purposes other than those for which it was intended, this shall be at the customer's own risk.

- 14.2 如果客户违反第 14.1 条第 1 句所约定的义务，并且如果客户根据第 14.1 条第 2 句修改产品或将产品用于非预期用途，致使第三方向费斯托索赔的，则无论法律依据如何，客户均应向费斯托赔偿全额索赔费用，除非客户的行为没有任何过错。

In the event of a breach of the obligation according to Section 14.1 sentence 1 and if the customer modifies the product or uses the product for purposes other than those for which it was intended according to Section 14.1 sentence 2, the customer shall indemnify Festo internally against all resulting claims by third parties, irrespective of the legal grounds, unless the customer has acted without fault.

- 14.3 如果费斯托因产品缺陷而召回产品或发出警告，或者费斯托认为出于安全原因需要召回产品，客户应最大程度上配合费斯托并采取其认为必要和可取的支持措施，特别是配合费斯托确定必要的客户数据。

Festo is prompted to recall or warn of a product due to a product defect in the products, or if Festo deems a product recall to be indicated for safety reasons, the customer shall cooperate to the best of his or her ability in the measures which Festo considers necessary and expedient and which support Festo in this, in particular in determining the necessary customer data.

- 14.4 客户有义务立即以书面形式告知费斯托其在使用产品中发现的潜在风险以及可能存在的产品缺陷。

The customer shall immediately inform Festo in writing of any risks that become known to him or her when using the products and of possible product defects.

- 14.5 在任何情形下且不论出于何种诉讼理由，费斯托根据本协议对客户所负的最高责任总额（包括支付罚金、违约金的义务，且不论起因、过错程度、过失、违约或其他情况）应限于仅与费斯托须承担责任的单笔订单价款的三分之一（1/3）。

In any event, and whatever the cause of action, Festo's maximum total liability to the customer pursuant to and in connection with this Agreement – including the obligation to pay penalties, liquidated damages and regardless of cause, degree of fault, negligence, breach of contract or otherwise – shall be limited to one third (1/3) of the individual order value in respect of which the cause of Festo's liability has arisen.

- 14.6 在任何情况下费斯托均不对任何依据本协议产生的间接或从属性损失负责，包括但不限于任何收入损失、利润损失、预期利益及节省损失、生产运营中断或停产停线损失、合同或商业机会损失、商誉损失、数据丢失或损坏、因使用软件生成数据而产生的损失、投资及机会成本损失、第三方申索及所有相关及附带成本及费用等。

In no event shall any pursuant to this Agreement Festo be liable to any party for any indirect or other consequential damages including but not limited to, any loss of revenue, loss of profits, loss of anticipated benefits and savings, loss of production or operation interruption or shutdowns, loss of

contracts or business opportunities, loss of goodwill, loss or corruption of data, losses arising from the use of software-generated data, loss of investment and opportunity cost, claims of third parties and all associated and incidental costs and expenses etc.

- 14.7 除承担交付物的缺陷之外，费斯托仅在费斯托或其管理人员出现蓄意、重大过失或产品存在危害生命、人身或健康的可治罪缺陷且费斯托恶意隐瞒该缺陷或担保不存在上述缺陷的情况中承担责任，前提是上述责任为产品责任法中规定的与该产品使用相关的人身伤害与财产损失责任。

Festo shall not be liable for defects other than to the delivery item, for whatever legal reasons, only in case of intent, gross negligence of bodies or executives, culpable violation of life, body, health, defects whose presence was not disclosed by Festo or its managerial personnels maliciously or their absence guaranteed by Festo, as well as in case of delivery item defects to the extent as liability is provided under the product liability law for personal injury and property damage in relation to privately used items.

- 14.8 任何进一步的索赔在此予以明确排除。

Any further claims shall be expressly excluded.

15. 保密义务

Confidentiality

客户承诺对订单履行工作涉及的一切信息、技术诀窍和其他工业机密进行保密，在获得费斯托的明确许可之前，客户不得将任何信息、单据、资料、图纸、草图或其他文件转移或提供给任何第三方。费斯托也有义务对客户的所有信息进行保密。

The customer undertakes to treat all information, know-how and other industrial secrets in connection with the execution of the respective order in strict confidence and not to pass on or make available any information, documents, documentation, drawings, sketches or other papers to third parties without the express permission of Festo. Festo shall also treat all customer documentation in confidence.

16. 不可抗力

Force majeure

- 16.1 如果不履行或者不完全履行义务是由于签订合同时无法预见的情况造成，并且费斯托无法通过合理手段补救的，构成不可抗力，费斯托不承担任何不履行或不完全履行义务的责任。在任何情况下，以下事件均应视为不可抗力：罢工、暴乱和内乱、战争（已宣布或未宣布）、海盗、恐怖威胁、破坏行为、火灾、洪水、地震和自然灾害、传染病和全球性流行病、政府行为等，以及费斯托供应商受到上述不可抗力影响的情形。

Festo shall not be liable for any partial or total non-performance of its obligations if such non-performance is due in whole or in part to circumstances which could not have been foreseen at the time of the conclusion of the purchase contract and which cannot be remedied by Festo by reasonable means ("Force Majeure"). In any case, the following events shall be considered as Force Majeure: strikes, riots and civil commotions, war (declared or undeclared), piracy, terrorist threats, acts of sabotage, fires, floods, earthquakes and natural disasters, epidemics and pandemics, acts of government or if the above circumstances affect subcontractors of the Festo.

- 16.2 如果发生不可抗力事件，费斯托在相关合同下的义务应暂停，暂停期间包括不可抗力的影响持续期以及此后一段合理的重新启动期。如果不可抗力事件持续时间超过 90 天，费斯托有权解除合同或订单。

In the event of a Force Majeure Event, the obligations of Festo under the relevant purchase contract shall be suspended for as long as the effect of the Force Majeure event lasts plus a reasonable restart period thereafter. If the Force Majeure event last for a period longer than 90 days, Festo is entitled to withdraw from the contract.

17. 法律适用及争议解决

Governing law and dispute settlement

本销售条款与条件的效力、解释、履行及争议解决均适用中华人民共和国法律。因本销售条款与条件引起或与之相关的任何争议，双方应先友好协商解决；若协商未果，任何一方均有权将该争议提交至中国上海市浦东新区人民法院通过诉讼解决。

The validity, interpretation, performance and dispute resolution of these Terms and Conditions shall be governed by the laws of the People's Republic of China. Any dispute arising from or in connection with these Terms and Conditions shall first be settled through friendly negotiations between both parties. If such negotiations fail to settle the dispute, either party shall have the right to submit the dispute to the Pudong New Area People's Court in Shanghai, China for litigation.

18. 合规 Compliance

客户保证已知悉费斯托《商业伙伴行为准则》，该准则可通过费斯托官网 (www.festo.com) 下载，并要求公司管理人员和员工遵守该准则。为保证合作顺利进行，客户应采取一切必要措施以避免发生任何非法行为，尤其是对费斯托造成不利影响的。因此，客户应在公司和/或集团内采取一切必要的，尤其是对于避免腐败或其他犯罪行为至关重要的行动，以监督其管理人员和员工对费斯托《商业伙伴行为准则》的遵守情况。

The customer warrants that he or she has been informed of the Festo Code of Conduct for Business Partners, which can be downloaded from Festo website (www.festo.com), and has instructed his or her managers and employees to comply with it. To secure this good conduct the customer shall undertake any necessary step to avoid any illegal actions, especially to avoid illegal actions which would adversely affect Festo. Therefore within his or her company and/or group the customer shall take any necessary actions needed to monitor compliance with the Festo Code of Conduct for Business Partners by his or her managers and employees, especially such actions which are essential to avoid corruption or any other criminal acts.