

Festo Vertrieb GmbH & Co. KG general conditions of delivery, payment and software use (referred to below as "GTC") – Version: 02/2021

1. Scope of application

- 1.1 These GTC shall only apply to entrepreneurs in the exercise of their commercial or independent professional activities and to legal persons under public law (such entrepreneurs and legal persons under public law are hereinafter referred to as "**Customer**"). They apply to all business transactions between Festo Vertrieb GmbH & Co. KG (hereinafter referred to as "**Festo**") and the Customer, even if they are not mentioned in later contracts. They apply mutatis mutandis to work services and services. Delivery of the delivered products shall be replaced by acceptance in the case of work services and receipt of the service in the case of services.
- 1.2 Conflicting, additional or deviating terms and conditions of the Customer shall not become part of the contract unless Festo has consented to their validity in writing. These GTC shall also apply if Festo makes a delivery to the Customer without reservation in full knowledge of its conflicting, additional or deviating terms and conditions.
- 1.3 Agreements which are to the contrary of, additional to or deviating from these GTC which are concluded between Festo and the Customer for the execution of a contract shall be set out in writing in the contract. This shall also apply to the cancellation of this requirement for the written form.
- 1.4 Rights to which Festo is entitled in accordance with the statutory provisions or other agreements beyond the scope of these GTC shall remain unaffected.

2. Conclusion of contract

- 2.1 Offers made by Festo are subject to confirmation and non-binding, unless Festo advises the contrary in writing.
- 2.2 Illustrations, drawings, weight, dimension, performance and consumption data as well as other descriptions of the products from the documents belonging to the offer are only approximate unless they are expressly designated as binding. They do not constitute an agreement or guarantee of a corresponding quality or durability of the products, unless they have been expressly agreed as such in writing. The Customer's expectations regarding the products or their use do not constitute an agreement or guarantee either.
- 2.3 A purchase order shall only become binding if it has been confirmed by Festo in writing or if Festo executes the purchase order, in particular if Festo fulfils the purchase order by sending the products. An order confirmation generated with the aid of automatic devices, which does not include a signature and name reproduction, shall be deemed to be in writing. Insofar as the order confirmation

contains obvious errors, spelling or calculation errors, it shall not be binding on Festo.

- 2.4 Festo's silence with regard to offers, purchase orders, requests or other declarations by the Customer shall only be deemed consent if previously agreed in writing.

3. Conclusion of contract in the Festo Online Shop

- 3.1 The provision of goods and services in the Festo Online Shop does not constitute an offer to conclude a contract, but merely an invitation to place a purchase order. Upon submitting a purchase order, the Customer submits an offer to Festo to conclude a sales contract.

- 3.2 Only purchase orders for deliveries to Germany are accepted via the Festo Online Shop. Purchase orders that are to be delivered to a different country shall be directed to the local sales company in the country concerned.

- 3.3 The Customer receives a purchase order confirmation after his or her purchase order has been received. This is for informational purposes only; it does not constitute acceptance of the purchase order. The purchase order does not become binding until a written or electronic order confirmation is issued or the goods are dispatched. In cases where software is being purchased via the App World, a contract comes about when the app is provided. Insofar as the order confirmation contains obvious errors, spelling or calculation errors, it shall not be binding on Festo.

4. Scope of delivery / disposal of electrical appliances

- 4.1 Festo's written order confirmation shall be decisive for the scope of delivery. Changes to the scope of delivery by the Customer shall have to be confirmed in writing by Festo in order to be effective. We reserve the right to make design and shape changes to the products if these are deviations customary in the industry or if the deviations are within the DIN tolerances, or if the changes are not substantial and it is reasonable for the Customer to accept them. The same applies to the choice of material, specification and design.

- 4.2 Delivery in parts shall be permissible unless delivery in parts is unreasonable for the Customer taking into account Festo's interests.

- 4.3 If Festo provides documents (e.g. manuals) for certain products, these are available to the Customer as a free download on the website www.festo.com. Festo can provide the Customer with printed versions of such documents for a charge as a separate purchase order.

- 4.4 After termination of use, the Customer is obliged to properly dispose of the delivered products at his or her own expense in accordance with the statutory provisions, in particular those of the Electrical and Electronic Equipment Act (ElektroG). The Customer thus exempts Festo from its take-back obligations as manufacturer pursuant to Art. 19 para. 1 ElektroG and from claims by third parties in connection therewith. The Customer shall contractually obligate commercial third parties to whom he or she passes on the delivered products to properly dispose of the products after the end of their use at their expense in accordance with the statutory provisions, in particular those of the ElektroG, and to impose a

corresponding further obligation in the event that the products are passed on again. If the Customer violates his or her obligation to pass on his or her obligations to his or her customers, the Customer is obliged to take back the delivered products after termination of use at his or her own expense and to dispose of them properly in accordance with the statutory provisions, in particular those of the ElektroG.

5. Delivery time

- 5.1 The agreement of delivery times (delivery periods and dates) shall be made in writing. Delivery periods and dates are not binding unless they have previously been designated as binding in writing by Festo.
- 5.2 The delivery period begins with the conclusion of the contract, but not before the complete provision of the documents, approvals and releases to be procured by the Customer, the clarification of all technical questions and the receipt of an agreed down payment. In the event of a delivery date, the delivery date shall be postponed appropriately if the Customer fails to provide the documents or permits to be procured by him or her in good time, fails to issue releases in good time, fails to clarify all technical questions in good time or fails to make the agreed down payment in full to Festo. The observance of the delivery time presupposes the timely and proper fulfilment of the other obligations of the Customer.
- 5.3 The delivery time shall be deemed to have been observed if the products have left the factory or Festo has informed the Customer that they are ready for collection or dispatch by the end of the delivery time. Compliance with the delivery time shall be subject to the proviso that Festo itself is properly supplied, in particular on time, unless Festo is responsible for the delivery to itself not being undertaken correctly. Festo shall be entitled to withdraw from the contract in the event of the delivery to itself not being undertaken correctly. Festo shall inform the Customer immediately if Festo exercises its right of withdrawal and shall return any advance services provided by the Customer.

6. Cross-border deliveries

- 6.1 In the case of cross-border deliveries, the Customer shall submit to the competent authorities in good time all declarations and actions necessary for export from Germany and import into the country of destination, in particular obtaining the documents required for customs clearance and satisfying the requirements for any export controls or other restrictions on marketability.
- 6.2 Deliveries shall be subject to the proviso that there are no obstacles to performance due to national or international regulations, in particular export control regulations, embargos or other sanctions.
- 6.3 Delays due to export controls shall extend delivery times accordingly; delivery dates shall be postponed appropriately.

7. Delivery prices and payment / surcharge for small quantities

- 7.1 Unless otherwise agreed, delivery prices are ex works and do not include shipping, packaging, insurance, statutory taxes, customs duties or other charges.

The costs incurred in this respect, in particular the costs for packaging and transport of the products, shall be invoiced separately. The statutory value added tax shall be shown separately on the invoice at the statutory rate applicable on the date of invoicing.

- 7.2 Unless otherwise agreed, the delivery price shall be payable net from the date of invoice. Section 7.3 of these GTC shall remain unaffected. Festo reserves the right in certain cases to deliver only after prepayment.
- 7.3 Contrary to section 7.2 of these GTC, 50% of the delivery price shall be due net with the invoice date for Customer-specific purchase orders, i.e. purchase orders for products which are not included in Festo's catalogue or are included in Festo's catalogue but are to be adjusted at the Customer's request. Festo will not process the purchase order until the Customer has paid this first 50% of the delivery price. The remaining 50% of the delivery price shall become due on the date of invoice.
- 7.4 For purchase orders with a net goods value of less than EUR 40.00, Festo shall charge the Customer a surcharge for minimum quantities amounting to the difference between the value of the purchase order and this net goods value. This does not apply to purchase orders placed via the Festo Online Shop.

8. Passing of risk

- 8.1 The passing of risk shall take place in individual cases in accordance with the agreed INCOTERMS. If no such agreement exists, the risk of accidental loss and accidental deterioration shall pass to the Customer as soon as the products are handed over to the person carrying out the transport or leave Festo's warehouse for the purpose of dispatch. In the event of collection by the Customer, the risk shall pass to the Customer upon notification of readiness for collection. Sentences 2 and 3 shall also apply if delivery is made in parts or Festo has assumed further services, such as transport costs or assembly of the products at the Customer's premises.
- 8.2 If dispatch is delayed due to circumstances for which the Customer is responsible, or if the Customer is in default of acceptance, the risk shall pass to the Customer upon notification of readiness for dispatch.

9. Software use

- 9.1 Unless otherwise agreed in product-specific terms, the Customer shall receive a non-exclusive right of use to software and associated documentation supplied by Festo against full payment of the agreed fee, which shall only be transferable in accordance with section 9.6 and shall not be limited in territory or time to a hardware product ("licence") specified by Festo in the order confirmation or a separate document.
- 9.2 The license entitles the Customer to use the software only for the specific hardware product, an installation on or use for another hardware product is not permitted. Use in the sense of the license means loading, displaying, running,

- transferring and storing the software for the purpose of executing it and processing data.
- 9.3 Festo shall provide installation and commissioning instructions in printed form containing appropriate safety instructions for the delivered software. All other documentation shall be delivered only in electronic form as online help.
- 9.4 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 certain or other hardware.
- 9.5 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. The regulations of Art. 69d para. 3 and Art. 69e of the German Copyright Act (UrhG) apply notwithstanding.
- 9.6 The Customer is entitled to permanently transfer the software together with the license and the backup copy made by him or her in accordance with section 9.4 to a subsequent purchaser of the particular hardware product. A prerequisite for the effectiveness of the transfer is that the Customer does not retain any copies of the software and the associated documentation – including the backup copy made by him or her – and that he or she permanently refrains from any further use of the software, in particular also on other hardware products used by him or her. The subsequent purchaser shall undertake to Festo to comply with the provisions in sections 9.1 to 9.7. The subsequent purchaser's right of use shall therefore only commence upon receipt of an acknowledgement of receipt signed by the subsequent purchaser for the specific hardware product and software, which shall contain a declaration that the subsequent purchaser recognises these provisions as binding in relation to Festo. In addition, the Customer shall assure Festo in writing that he or she has deleted or otherwise rendered unusable all copies of the software and the associated documentation that may still be in his or her possession – including the backup copy made by him or her in accordance with section 9.4 – insofar as this has not been handed over to the subsequent purchaser.
- 9.7 In other respects, the Customer shall not be entitled to use the software in any other way or for any other purpose than that described in this section 9, or to enable persons who are not involved in the operation or maintenance of the particular hardware product as intended to use the software, or to make the

software available to third parties for use in whole or in part, temporarily or permanently.

10. Warranty claims

- 10.1 The Customer's rights in respect of defects shall be subject to the condition that the Customer has duly complied with its obligations to inspect the delivered products and to give notice of defects pursuant to Section 377 of the German Commercial Code (HGB).. The Customer shall describe the defects in detail when notifying Festo in writing. The Customer shall also comply with the specifications, notes, guidelines and conditions in the technical notes, assembly, operating and operating instructions, in particular with regard to the conditions of use of the products (e.g. oiling notes, quality of compressed air or other operating media, ambient conditions) and other documents relating to the products during the planning, construction, assembly, connection, installation, commissioning, operation and maintenance of the products; in particular the Customer shall carry out and prove maintenance work properly and use recommended components. Warranty claims for defects resulting from the violation of this obligation are excluded.
- 10.2 In the event of defects in the products, Festo shall be entitled, at its option, to subsequent performance by remedying the defect or delivering a defect-free product. Replaced parts become the property of Festo and shall be returned to Festo.
- 10.3 The Customer's right of withdrawal from the contract in case of defects shall be excluded if Festo is not responsible for the defect.
- 10.4 No claims for defects shall arise as a result of natural wear and tear, in particular in the case of wearing parts, improper handling, assembly, use or storage or improperly carried out modifications or repairs to the products by the Customer or third parties. The same applies to defects attributable to the Customer or to a technical cause other than the original defect.
- 10.5 Festo does not assume any guarantees, in particular no guarantees of quality or durability, unless otherwise agreed in writing in individual cases.
- 10.6 The limitation period for the Customer's warranty claims is one year, unless a consumer goods purchase takes place at the end of the supply chain. The limitation period of one year shall also apply to claims arising from tort which are based on a defect in the products. The limitation period begins with the delivery of the products. The limitation period of one year shall not apply to the unlimited liability of Festo for damage arising from the breach of a guarantee or from injury to life, limb or health, for intent and gross negligence and for product defects or insofar as Festo has assumed a procurement risk. A statement by Festo on a defect claim asserted by the Customer shall not be regarded as an entry into negotiations on the claim or the circumstances justifying the claim if the defect claim is rejected by Festo in its entirety.

11. Supplementary provisions on defect rights for software

- 11.1 Software from Festo can only be run on hardware products specified by Festo in the order confirmation or a separate document. The subject of the delivery is

software which basically corresponds to the information given in the respective product description. Subject to any express assumption of a guarantee by Festo, the information in the product description and program documentation shall not be deemed to be quality guarantees within the meaning of Arts. 443 and 639 BGB (German Civil Code).

- 11.2 For customised software, Festo shall warrant compliance with the functions and features stipulated in the specifications, the Festo order confirmation, documentation or the jointly defined work/procedure descriptions.
- 11.3 A defect exists if the software does not fulfil the functions and features stated in the product description – in the case of Customer-specific software created in the documents pursuant to section 11.2, delivers incorrect results, uncontrollably interrupts its running or otherwise does not function properly, so that the use of the software is prevented or impaired not merely insignificantly.
- 11.4 Festo shall not be liable for errors in the software,
- 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;
 - due to the actions of a virus or other external influences for which Festo is not responsible, such as fire, accidents, power failure, etc.;
 - 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;
 - which are based on the fact that the software was changed by the Customer or a third party without authorization.
- 11.5 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 the software provided by Festo
- 11.6 In the event of defects within the meaning of section 11.2 occurring, the Customer shall be obliged to provide Festo with all information necessary 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 message 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 can

invoice the Customer for the corresponding expenditure on the basis of Festo's applicable hourly rates.

12. Liability of Festo

- 12.1 Festo shall have unlimited liability for damage resulting from the breach of a guarantee or from injury to life, limb or health. The same applies to intent and gross negligence or if Festo has assumed a procurement risk.
- 12.2 Festo shall only be liable for slight negligence if essential obligations are breached which result from the nature of the contract and which are of particular importance for achieving the purpose of the contract. In such a case, Festo's liability shall be limited to such damage as is typically to be expected within the scope of the contract. A mandatory legal liability for product defects remains unaffected.
- 12.3 Insofar as Festo's liability is excluded or limited, this shall also apply to the personal liability of Festo's employees, workers, staff, representatives and vicarious agents.

13. Product liability

- 13.1 The Customer shall not modify the products, in particular he or she shall not modify or remove existing warnings about dangers arising from improper use of the products. In the event of a breach of this obligation, the Customer shall indemnify Festo internally against product liability claims by third parties, unless the Customer is not responsible for the modification of the products.
- 13.2 If 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.
- 13.3 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. Force majeure

- 14.1 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.
- 14.2 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.

15. Retention of ownership

- 15.1 The delivered products shall remain the property of Festo until full payment of the delivery price and all claims to which Festo is entitled from the business relationship with the Customer.
- 15.2 The Customer shall be obliged to treat the products that are subject to retention of title (hereinafter also: "Retained Goods") with due care for the duration of the retention of title. In particular, he is obliged to sufficiently insure the Retained Goods at his own expense against damage by fire, water and theft. The Customer hereby assigns to Festo all compensation claims arising from this insurance. Festo hereby accepts the assignment. If an assignment should not be allowed, the Customer shall instruct his insurer to make any payments only to Festo. Further claims of Festo remain unaffected.
- 15.3 The Customer is revocably entitled to transform the Retained Goods, i.e. to process and to combine or to mix the Retained Goods with other products in the ordinary course of business (hereinafter also: "Transformation"). The Transformation shall always be carried out for Festo. The Customer's expectant right (Anwartschaftsrecht) to the Retained Goods continues in the transformed item. If the Retained Goods are transformed with other items not belonging to Festo, Festo acquires co-ownership of the new item in proportion to the value of the Retained Goods (invoice amount including VAT) to the other processed items at the time of Transformation. In all other respects, the provisions applying to Retained Goods shall equally apply to the item created by Transformation.
- 15.4 The Customer is revocably entitled to sell the Retained Goods in the ordinary course of business, irrespective of whether the Retained Goods are resold without or after Transformation. The Customer is not entitled to pledge (verpfänden) the Retained Goods, to assign them by way of security (zur Sicherheit übereignen) or to make other dispositions that endanger Festo's ownership.
- 15.5 The Customer hereby assigns to Festo the claims arising from the resale of the Retained Goods (invoice amount including VAT) with all ancillary rights, irrespective of whether the Retained Goods are resold without or after Transformation. Festo accepts this assignment. If the Retained Goods are sold together with other items not supplied by Festo, the claim from the resale is assigned in proportion to the value of the Retained Goods (invoice amount including VAT) to the other goods sold. In the event of the sale of goods in which Festo has co-ownership in accordance with Clause 15.3, a portion corresponding to its ownership share shall be assigned to Festo. If an assignment should not be permissible, the Customer shall instruct the third-party debtor to make any payments only to Festo.
- 15.6 The Customer is revocably authorised to collect the claims assigned to Festo on a fiduciary basis (treuhänderisch) for Festo in his own name. Festo can revoke the Customer's authorisation to collect and the Customer's authorisation to transform and to resell the Retained Goods for good reason, e.g. if the Customer does not properly fulfil his payment obligations towards Festo and is in default of

payment. In the event of a blanket assignment (Globalzession) by the Customer, the claims assigned to Festo shall be expressly excluded.

- 15.7 At the Customer's request, Festo shall be obliged to release the securities to which it is entitled insofar as the realisable value of the securities exceeds Festo's claims arising from the business relationship with the Customer by more than 10%, taking into account customary valuation discounts. The valuation is based on the invoice value of the Retained Goods and the nominal value of receivables. Festo shall be responsible for selecting the individual items to be released.

16. Confidentiality

- 16.1 The Customer shall be obliged to keep secret all information which becomes accessible to him or her and which is designated as confidential by Festo or which is recognisable under other circumstances as business or trade secrets of Festo for a period of five years from delivery and not to record it, pass it on or exploit it, unless required for the business relationship. Prices and other contractual provisions shall also be treated as business or trade secrets.
- 16.2 The obligation to maintain confidentiality shall not apply if the information was demonstrably known to the Customer prior to the commencement of the contractual relationship with Festo or was generally known or accessible prior to the commencement of the contractual relationship with Festo or becomes generally known or accessible through no fault of the Customer. The Customer bears the burden of proof.
- 16.3 The Customer shall ensure by means of suitable contractual agreements with the employees and agents working for him or her, in particular his or her freelancers and the contractors and service providers working for him or her, that for a period of five years from delivery these also refrain from any own exploitation, passing on or unauthorised recording of such business and trade secrets.

17. Compliance

The Customer shall comply with Festo's "Code of Conduct for Business Partners" (available at <https://www.festo.com/group/de/cms/10310.htm>).

18. Final provisions

- 18.1 The transfer of rights and obligations of the Customer to third parties is only possible with the prior written consent of Festo.
- 18.2 The Customer shall only be entitled to offset counterclaims if they are legally established or undisputed.
- 18.3 The Customer can only assert a right of retention if his or her counterclaim is based on the same contractual relationship.
- 18.4 The legal relationship between the Customer and Festo shall be governed by the law of the Federal Republic of Germany to the exclusion of the UN Convention for the sale of movable goods (CISG).
- 18.5 The exclusive place of jurisdiction for all disputes arising from the business relationship between Festo and the Customer shall be the registered office of Festo. Festo shall also be entitled to institute legal proceedings at the Customer's

place of business and at any other permissible place of jurisdiction. Arbitration clauses are contradicted.

- 18.6 Unless otherwise agreed, the place of performance for all services provided by the Customer and Festo shall be the registered office of Festo.