

# General Terms and Conditions of Purchase (GTC)

(The current valid General Terms and Conditions of Purchase are available at [www.belimo.com](http://www.belimo.com))



## 1 General

1.1 These General Terms and Conditions of Purchase (GTC) are applicable to all purchases of products and services by BELIMO Automation AG, Brunnenbachstrasse 1, 8340 Hinwil, Switzerland, hereinafter Belimo, and its affiliates as defined below. No other terms, including any different or additional terms of supplier, including those contained in supplier's order confirmation or invoice shall apply, unless Belimo expressly agrees to such terms in writing.

1.2 "**Affiliate**" means the parent company of BELIMO Automation AG, BELIMO Holding AG, and any legal entity of which at least 50% of the voting shares or similar voting rights now or hereafter are owned or controlled, directly or indirectly by BELIMO Holding AG, or in which BELIMO Holding AG otherwise has the ability to direct the management, but any such legal entity shall be considered to be an affiliated company only for so long as such control exists.

## 2 General terms of manufacturing and supply

2.1 Supplier shall manufacture, test, package and deliver the products in accordance with (a)

2.2 the relevant individual i) Belimo product specification or ii) if product is specified by Supplier in accordance to those specifications, (b)

2.3 the Belimo global delivery instructions (GDI) and (c)

the terms and conditions of this GTC and all applicable laws and regulations.

## 3 Product specification

3.1 If Belimo and Supplier have agreed a product specification (the "**Specification**") defining the product to be supplied under this GTC, then no product substitutions and/or change in the Specification shall be executed without prior written approval from Belimo (such approval not to be unreasonably withheld or delayed by Belimo), even if such substitutions or changes do not affect fitness, form, function or performance of the product.

3.2 Traceability: The production lots shall be identified with individual lot numbers in order to allow product traceability of the final inspection records and of process parameters for failure analysis purposes. Traceability shall be guaranteed for eleven (11) years after delivery of the product.

## 4 Product price and product related items

The prices indicated by the Supplier in the offer and in the purchase order are considered to be fixed prices.

## 5 Invoices and payment terms

5.1 Invoices shall be issued upon shipment of the products to Belimo and will be sent to the address as indicated in the purchase order.

5.2 Payment terms are net 60 (sixty) days after invoice date, to the bank account identified by supplier in the invoice. Belimo has the right to withhold the payment in case of product non-conformity or defect.

## 6 Orders and order confirmations

6.1 Purchase order: only orders issued by Belimo in writing are valid. Belimo will not accept invoices for orders that have been given in any other form. Orders as well as extensions, amendments or derogating terms and conditions which are issued orally or by telephone, are only binding for Belimo once Belimo has confirmed such in writing.

6.2 Order confirmation: Supplier shall confirm the purchase order within 2 days of receipt, after that period, the order shall be considered as accepted by supplier.

## 7 Delivery, title and risk

7.1 Delivery time: Delivery time is in calendar days from receipt of the order.

7.2 Terms of delivery: Terms of delivery are DAP (Delivery at Place), (Incoterms 2020) Belimo location as indicated in the purchase order.

7.3 Title and risk: Title to and risk of loss or damage with respect to the products shall pass from supplier to Belimo upon delivery. Therefore, supplier bears all risks of loss or damage to the products until they have been delivered pursuant

to this section 7.

7.4 Late delivery:

If delivery date(s) cannot be met, supplier shall immediately inform Belimo in writing of the best possible delivery date(s). Supplier is made aware that late delivery may lead to production stop at Belimo. In coordination with Belimo, supplier shall make all necessary arrangements to make up for the time lost. Belimo may request that manufacturer ships the products by other than the designated routing to expedite delivery. Cost of alternative means of shipment shall be borne by supplier.

In case of late delivery, Belimo is entitled at its discretion to cancel the affected order at no cost and to source the products from an alternative supplier.

In the event the products arrive earlier, Belimo reserves the right to refuse acceptance or return them at the expense and at the risk of supplier. The payment due date shall not be affected in the event of such early delivery.

7.5 Packaging, Labeling: Supplier bears the full responsibility for proper packaging and labeling of the products. All products shall be packed for shipment and storage in order to prevent its damage or deterioration during transit to its final destination.

7.6 Packing Slip: the global delivery instructions (GDI) apply. In case supplier is delivering production material, at least every lot must bear a numbered delivery note that gives information on the contents (description of products) including at least:

The corresponding Belimo order number;

The Belimo part number of the units delivered with revision; and the lot number with the corresponding quantity.

## 8 Customs, origin and export control

8.1 For customs purposes the GDI apply, but at least, supplier will attach a commercial invoice in English to the shipping documents in duplicate. Any simplification of that procedure is only permitted subject to Belimo's prior written consent. In the case of deliveries incurring customs duty, the invoice shall specify as separate items:

8.1.1 cost of items not included in the price (such as commissions, brokerage, cost of licenses, cost of means of production, Belimo's contributions);

8.1.2 cost of items included in the price (such as cost of assembly and freight cost);

8.1.3 value of repairs carried out, broken down into cost of materials and wages.

8.2 Should further official documents be required in the case of imports or exports for the intended use of the deliveries ("**Deliveries**"), supplier shall procure such documents for Belimo without delay and make them available to Belimo at supplier's cost.

8.3 Supplier shall notify Belimo of the non-preferential and preferential origin of the Deliveries.

8.4 Upon request of Belimo supplier shall provide any underlying documentation evidencing the accuracy of the declaration of origin. Supplier shall inform Belimo immediately in writing of any change of origin of Deliveries.

8.5 If Supplier supplies Deliveries, which receive a preferential treatment in the import country, supplier is obliged to provide a declaration of origin suitable to that supply (e.g. form sheet A, EUR 1). This certificate is required with every such shipment. Arising customs duties in case of missing certificates will be at supplier's cost.

8.6 If a proof of origin is required by virtue of local import rules in the country of intended final Delivery, supplier shall also provide Belimo with such proof.

8.7 Supplier shall provide Belimo with all such support as may be necessary to enable Belimo to reduce or minimize its liability to customs duties. Upon Belimo's request, supplier commits to implement customs procedures with commercial impact in close coordination with Belimo.

8.8 For any and all questions and instructions

arising out of or required in connection with customs and declaration of origin, supplier shall contact Belimo's respective customs department. Unless otherwise agreed, customs clearance shall be the responsibility of Belimo. If supplier assumes responsibility for customs clearance without Belimo's prior written approval, supplier shall bear the costs of such clearance.

8.9 Supplier shall inform Belimo of any export restrictions applicable in the country of manufacturing and/or dispatching of the Deliveries and provide all relevant information that Belimo reasonably requires to ensure compliance by Belimo with export control and trade compliance regulations worldwide. Supplier shall inform Belimo if the Deliveries are subject to any export/reexport license under US-law/US-regulations. If supplier is located in Switzerland or in a member state of the European Union, supplier shall inform Belimo about any obligation to obtain an export license with respect to dual-use goods as well as munitions subject to the Swiss or European Union export control restrictions and the national export control restrictions. Supplier shall provide to Belimo the classification number as applicable (e.g. ECCN-Export Control Classification Number for US products, "AL-Number" for Deliveries listed in the German Export Control List, etc.) and inform Belimo of any license exceptions available for the Deliveries.

8.10 Latest at dispatch of the products, supplier shall provide to the Belimo appointed customs broker (by email communicated to supplier) the following information and documents:

- i. Invoices / proforma invoices;
- ii. Preferential origin documents (e.g. A.TR, EUR.1, Form A, etc.);
- iii. Delivery notes;
- iv. Name and contact of chosen freight forwarder;
- v. Used customs office at the border to Switzerland;
- vi. Means of transportation;

and any such other document or information as may be required for transportation and customs clearance.

## 9 Quality assurance and warranty

9.1 Supplier's control report: on request supplier will provide Belimo with a control report that shows how supplier ensures that the product will meet the Specifications.

9.2 Policy regarding incoming goods: Belimo expects supplier to deliver products conforming to the Specification. An incoming inspection is therefore not required and Belimo will only perform random spot / sample checks on incoming goods.

9.3 For the avoidance of doubt, Belimo's waiver of inspection of the delivered product shall in no way limit its right to reject the product affected by a defect afterwards, even in the case of a defect affecting the relevant product, including its packaging, apparent on normal visual inspection. Belimo's waiver of inspection of the delivered products at reception, before shipment, or afterwards does not release supplier from any of its obligations, including any warranty obligations.

9.4 Warranty: Supplier herewith acknowledges that Belimo warrants its products to its customers for 5 years. Supplier warrants that the Products have been manufactured and tested in accordance with and to comply with the applicable Specifications and test specifications and all laws and regulations applicable and will be free from defects in design, workmanship and materials for a period of 5 years from the date of delivery. Supplier furthermore warrants that the products, (and where applicable products which have been repaired), shall:

- (a) be free and clear from any charge or encumbrance;
- (b) be new at the time of delivery (other than repaired products);
- (c) indicate the residual shelf life of the products, which may not be lower than 24 months, at least ¾ of shelf life.
- (d) be so designed, constructed, finished and packaged as to be safe and without risk to health;

## General Terms and Conditions of Purchase (GTC)

(The current valid General Terms and Conditions of Purchase are available at [www.belimo.com](http://www.belimo.com))



- (e) be supplied in accordance with the purchase orders;
- (f) be serviced and supported by supplier for the life cycle of the products; and
- (g) include all necessary instructions and recommendations as to the care, handling and storage of the products and that such instructions or recommendations comply with all applicable laws for the time being in force in the relevant territory and are complete and accurate so as to enable the products to be sold and used.

9.5 Supplier shall ensure that the manufacture, repair and supply of the products be carried out with due care and skill by appropriately qualified and trained personnel.

9.6 **Remedies:** In case of delivery of non-conforming or defective products, or if any products delivered to Belimo are otherwise not in conformity with the terms of this GTC, then, without limiting any other right or remedy that Belimo may have, Belimo may, at its discretion require supplier within the time designated by Belimo to either (i) repair or (ii) replace the Products at supplier's risk and expense, or (iii) refund to Belimo the purchase price of all products which do not conform with this GTC. Belimo is under no obligation to return the defective or non-conforming products to supplier unless so requested by supplier at its expense.

### 10 Compliance with standards and regulations

10.1 The Product shall fulfill standards and regulations as requested in the purchase orders.

#### 10.2 EU RoHS

All parts, materials and products supplied to Belimo, except packaging material and documents provided with a product, shall comply at any time with the requirements of the European Restriction of Hazardous Substances Directive (2015/863/EU), as amended from time to time.

#### 10.3 EU REACH

The Regulation (EC) No. 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"), regulates a large number of substances of very high concern ("SVHC's"). All parts, materials and products supplied to Belimo shall comply with the requirements of REACH at any time. Supplier is obliged to inform Belimo whether any SVHC constitutes greater than 0.1% of the weight of any part, materials or Product supplied to Belimo.

#### 10.4 Other substance restrictions

There are additional restrictions of substances. Some of them do only apply to certain materials, parts or products. These substances and their area of applicability are described in the Belimo List of Hazardous Substances (LHS) published on Belimo's website.

It is the Supplier's responsibility to always comply with the currently valid version of the LHS on Belimo's website. A deviation from the requirements given in the LHS shall be reported to Belimo immediately.

On request, and at least once a year, Supplier shall be requested to report the compliance or reportable levels of substances within the spreadsheet "LHS ROHS REACH declaration" provided by Belimo.

#### 10.5 Responsible Sourcing

**Conflict Minerals Reporting:** Conflict Minerals are Tin, Tantalum, Tungsten and Gold (3TG). If at least one of these minerals is present in at least one of the products provided to Belimo, then the supplier, upon request of Belimo, shall provide an up-to-date CMRT Conflict Minerals Reporting Template available from [Conflict Minerals Reporting Template \(responsiblemineralsinitiative.org\)](http://ConflictMineralsReportingTemplate(responsiblemineralsinitiative.org))

**Extended Minerals Reporting:** In case the products contain cobalt or mica an up-to-date EMRT shall be provided upon request to Belimo. EMRT: Extended Minerals Reporting Template available from [Extended Minerals Reporting Template \(responsiblemineralsinitiative.org\)](http://ExtendedMineralsReportingTemplate(responsiblemineralsinitiative.org))

10.6 Supplier shall provide, where applicable, to Belimo the manufacturer/importer safety data

sheet and the chemical safety report listing all chemical substances contained in the materials as used to manufacture the product, in compliance with this Section 10.

10.7 Supplier shall continuously keep up to date on the applicable laws, directives and regulations. This includes those listed here in Section 10, to investigate and track the contents of any parts, materials or products supplied to Belimo accordingly.

### 11 Incidents

#### 11.1 Quality Incidents

In the event that supplier becomes aware of the existence of any quality or technical problem relating to any product, supplier shall immediately notify [Supplierquality.Incident@belimo.ch](mailto:Supplierquality.Incident@belimo.ch) and his usual contact in Belimo Procurement.

#### 11.2 ESG Incidents

In the event that supplier becomes aware of the existence of any environmental, social or governance problem related to the supplier, then supplier shall immediately notify [ESG.Incident@belimo.ch](mailto:ESG.Incident@belimo.ch) and his usual contact in Belimo procurement.

### 12 Compliance

12.1 In performing its obligations under the GTC, supplier shall comply with:

- a) all applicable laws, statutes, and regulations from time to time in force; and
- b) the Belimo Supplier Principles, **available under [www.belimo.com](http://www.belimo.com)**.

### 13 Intellectual Property Rights

13.1 Supplier warrants that it has carefully reviewed the intellectual property situation in relation to the products and made all necessary investigations and that the products do not infringe upon any third party Intellectual Property Rights, including but not limited to patent rights and copyrights.

13.2 In the event the product or any portion thereof is subject of a claim of infringement, supplier shall at supplier's risk and expense (a) procure the right and license to continue using the product; (b) propose a redesign of the product to render it non-infringing without material change in the form, the fit and the function and without causing a reduction in performance; (c) propose a replacement of the product with equally suitable non-infringing product; or (d) return the product in exchange for full credit.

### 14 Indemnification and insurance

14.1 **Indemnity.** Supplier shall indemnify, defend and hold Belimo, its Affiliates, and their respective employees, agents, officers and directors (the "**Indemnified Parties**") harmless against all liabilities, costs, expenses, damages and losses suffered or incurred by an Indemnified Party arising out of or in connection with:

- (a) any claim action, suit or proceeding that may be brought for damages or injunctive relief brought against an Indemnified Party for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply, sale or use of the products;
- (b) any claim made against an Indemnified Party by a third party arising out of, or in connection with, the supply, sale or use of the products, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the GTC by supplier, its employees, agents or subcontractors; and
- (c) any claim made against an Indemnified Party by a third party for death, personal injury or damage to property arising out of, or in connection with, defective products.

14.2 Supplier agrees at its own expense to defend against any such claims, actions, suits or proceedings, rightfully or wrongfully instituted with legal counsel reasonably acceptable to Belimo; provided however that supplier shall not settle any claim, action, suit or proceeding which imposes upon Belimo any obligation, or in any way prejudices the rights of Belimo, without Belimo's prior written consent. Supplier agrees to satisfy any and all judgments which may be rendered against the Indemnified Parties with respect thereto. Notwithstanding the foregoing, Belimo shall have the

option to mandate attorneys, at the sole cost and expense of supplier, to defend any claim, action, suit or proceeding in the event supplier fails to assume such defense.

14.3 **Insurance.** For a period of five (5) years after delivery of products, Supplier shall take out and maintain at its expense, appropriate insurance coverage with a reputable insurer against loss or damage howsoever caused, including third party liability insurance.

### 15 Confidentiality

15.1 Receiving Party undertakes to keep confidential and not to disclose to any third party disclosing party's Confidential Information. Receiving party shall use disclosing party's Confidential Information only in connection with the GTC, and shall not use it, directly or indirectly, for any other purpose. Disclosing party's Confidential Information shall be disclosed by receiving party only to those of its employees and those of its Affiliates, sub-contractors or service providers, who need to know such Confidential Information for the purposes of the GTC, who have been informed of the confidential nature of such information, and who are obligated to keep such information in confidence and are bound to obligations no less stringent than those contained herein. Receiving party shall be responsible for any violation of these undertakings by its employees.

15.2 If any portion of disclosing party's Confidential Information is required by law, a competent court or a governmental entity to be disclosed, receiving party shall promptly notify disclosing party in writing, and may furnish that portion of disclosing party's Confidential Information that it is required to disclose provided however that disclosing party shall first have been given an opportunity to obtain a protective order precluding or limiting the disclosure of disclosing party's Confidential Information.

15.3 Receiving party shall, upon request of disclosing party or upon termination of the agreement, return all disclosing party's Confidential Information, including all copies thereof, and make no further use of it, or at the disclosing party's instruction, destroy or permanently delete such Confidential Information and furnish written certification of such destruction or permanent deletion.

15.4 Notwithstanding any termination or expiration hereof, the obligations of confidentiality and non-use hereunder shall indefinitely survive and continue in full force and effect.

15.5 **Information and marketing to the public:** Any information to the public, such as namely advertisement or marketing, or any reference to Belimo in oral or written presentations or technical documentation and the like, or any other activities conducted towards the public making a reference to Belimo, shall only take place upon prior consultation and mutual consent between the parties.

### 16 Miscellaneous

16.1 The GTC embody the entire understanding of the parties as it relates to the subject matter.

16.2 No amendment or modification of the GTC shall be valid or binding upon the parties unless signed by their respective duly authorized officers.

16.3 This GTC cannot be assigned by any party (except by Belimo to an Affiliate) without the written consent of the other party. Any assignment without the written consent of the other party shall be null and void.

16.4 The waiver by any party of a breach or default in any of the provisions of this GTC by another party shall not be construed as a waiver by such Party of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of any party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such party.

16.5 If any term or provision of this GTC shall be judged to be invalid, the validity of any other term or provision shall not be thereby affected and such invalid term or provision shall be deemed deleted from this GTC.

16.6 Unless otherwise specifically agreed to in

## General Terms and Conditions of Purchase (GTC)

(The current valid General Terms and Conditions of Purchase are available at [www.belimo.com](http://www.belimo.com))



writing, this GTC prevails over any additional, conflicting or inconsistent terms and conditions appearing on any quotation, purchase order, acknowledgement, invoice or other form used by the parties in connection with this Agreement.

16.7 Supplier is an independent contractor and not an agent, partner, representative or employee of Belimo. The manner in which supplier fulfills its obligations is left under its control and own judgment. Supplier and its employees are not authorized to bind Belimo or to represent it in any manner.

### 17 Applicable law and Jurisdiction

17.1 The GTC are construed in accordance with and governed by Swiss law. The UN-Convention on Contracts for the International Sale of Goods as well as general terms of sale of supplier shall not be applicable.

17.2 Any disputes arising out of or in connection with the GTC shall be exclusively submitted to the Commercial Court of the Canton of Zurich. Nothing in this clause prevents either party from seeking orders from any competent court for any urgent interlocutory or other equivalent injunctive relief.

### 18 Definitions

The following definitions in this clause apply to the GTC:

18.1 Confidential Information: means all non-public, confidential, or proprietary information disclosed on or after the date of the Belimo purchase order, by a disclosing party to the receiving party whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," including the existence and terms of the GTC, all confidential or proprietary information relating to the business, affairs, customers, clients, suppliers, plans or market opportunities of the disclosing party, the operations, processes, product information, know-how, technical information, designs, trade secrets or copyrighted material of the disclosing party, any information, findings, data or analysis derived from Confidential Information, and any information, which a reasonable person would recognize as confidential considering the nature of the information and the circumstances of disclosure.

18.2 Intellectual Property Rights: means patents, utility models, rights to inventions, copyright and neighboring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.