

## TERMS OF USE OF THE SUPPLIER PORTAL

### Preamble

**BELIMO Automation AG („Belimo“) operates an electronic supplier portal for electronic orders and the exchange of messages.**

**The purpose of these Terms of Use is to regulate the use of the supplier portal.**

### Article 1 Definitions

- 1.1 “Party” or “Parties” shall mean Supplier, Belimo or both jointly as the case may be.
- 1.2 „Procurement Agreement“ shall mean all supply contracts, quality agreements and delivery agreements between Belimo and the Supplier concluded in accordance with these Terms of Use. As far as the Parties have not arranged yet differently, the Belimo General Terms and Conditions of Procurement will act as the Procurement Agreement.
- 1.3 „Electronic Messages“ shall mean data and information exchanged in the scope of business between the Parties.
- 1.4 „Confidential Information“ shall mean business secrets as for example production data as well as other provided information with a confidential character.

### Article 2 Supplier Portal

- 2.1 The supplier portal is operated by a third party service provider. Electronic messages can be received and sent through the supplier portal by the Supplier. Belimo assumes no liability for the function or the availability of the portal.
- 2.2 The Supplier is free to use his own service providers for the transmission of electronic messages from the supplier's portal (interface) to his systems. It is the Suppliers own responsibility to commission, instruct, supervise and compensate his own service providers.

### Article 3 Time of Effect, Legal Force and Scope of Application

- 3.1 By clicking on „I accept“, the Supplier agrees with these Terms of Use and these Terms of Use will come into force between the Supplier and Belimo. The Supplier warrants that the person giving the consent has the power to sign these Terms of Use on the Suppliers behalf.
- 3.2 With the conclusion of these Terms of Use, the option of electronic messaging is provided besides the means of communication stipulated in the Procurement Agreement.
- 3.3 As far as Belimo is sending electronic messages to the Supplier, the Supplier commits himself to use electronic messages for the particular transaction as well.
- 3.4 The Parties acknowledge that electronically transmitted statements constitute effective and enforceable rights and duties. The Parties warrant that the persons transmitting electronic messages have adequate authority.

### Article 4 Access to the Electronic Supplier Portal

- 4.1 The Supplier has to make sure that the password he uses for the registration meets generally accepted password protection recommendations. Belimo takes all necessary technical measures to protect the portal against unauthorized access. The Supplier has to protect the access to the portal, especially passwords or access identification (hereinafter “Login Credentials”) from unauthorized access by third parties (for example by the means of an anti-virus program). Further the Supplier has to handle the login credentials with all due care and keep them secret.

## TERMS OF USE OF THE SUPPLIER PORTAL

- 4.2 The Supplier must not transfer the Login Credentials to any third party. The Supplier is liable for any consequences arising from such transfer.

### **Article 5 Use of the Electronic Supplier Portal**

- 5.1 To facilitate the use of the supplier portal for the Supplier, cookies as well as flashcookies can be used to temporarily store all information entered.
- 5.2 The Supplier verifies and updates the data provided in his supplier portal. In particular the Supplier ensures that the contacts indicated in the supplier portal are always current. It is the Suppliers duty to arrange for a delegate regulation.
- 5.3 The supplier portal may exclusively be used for business purposes. For security reasons the exchange of confidential information shall take place over a secured connection.
- 5.4 The Parties make available their communications systems, software, security processes, service- and test facilities in a manner that ensures successful and reliable transmission as well as the receipt of electronic messages. In particular the Parties ensure that there are adequate security measures in place to enable a secure exchange, use and modification of electronic messages as well as other electronic data and to prevent data leakage or loss of data.
- 5.5 Belimo bears the costs for the operation of the supplier portal. Costs for modules or interfaces desired by the Supplier are to be borne by the Supplier.
- 5.6 Electronic messages are deemed as received when they are accessible on the receiving computer. It is each Parties duty to ensure the transmission and receipt of electronic messages work.
- 5.7 Upon receipt of an unreadable electronic message, the recipient shall immediately notify the identifiable sender. If no notification is provided, the content of the unreadable electronic message becomes binding.
- 5.8 In case the receipt or transmission of electronic messages is temporarily or constantly impossible, interrupted or delayed ("Interruption"), the Supplier shall immediately inform Belimo about the nature, start, anticipated duration and the end of the Interruption.

### **Article 6 Particular Regulations to the Ordering Process**

- 6.1 Orders from Belimo will be made available to the Suppliers in the portal. In addition the Supplier will be informed about all orders received or modified in the supplier portal by electronic mail. By confirming the order in the portal the Supplier agrees to carry out the order according to the specifications. The confirmation serves at the same time as an order confirmation for Belimo.

### **Article 7 Requests for Quotation**

- 7.1 Belimo can transmit requests for quotation to the Supplier over the supplier portal. For this purpose the supplier will receive the necessary information and the technical documentation. The Supplier will complete a form with details of the quotation. Submitted quotations are binding and not visible for other suppliers.
- 7.2 If Belimo does not accept the quotation it will inform the Supplier accordingly. Thereafter the Supplier is not bound to his quotation any more.
- 7.3 Belimos decision about the acceptance or the rejection of the submitted quotations can neither be contested by the Supplier nor may the Supplier raise any other claim based on the request for quotation.
- 7.4 The Parties treat the information obtained through the Request for quotation process confidential.

### **Article 8 Assessment of the Supplier**

- 8.1 Belimo does supplier assessments periodically. The assessment result is accessible over the supplier portal and only visible for the particular Supplier himself.

## TERMS OF USE OF THE SUPPLIER PORTAL

### **Article 9 Confidentiality**

- 9.1** The Parties are obliged to treat confidential information with all due care and not to make it available to third parties. Companies of the Belimo-Group are not deemed third parties as defined by this Article 9. The Parties will explicitly bind their employees to adequate confidentiality obligations as far as this was not already demonstrably agreed upon in the employment contract.
- 9.2** The electronic signature and encryption proceeding used by Belimo is deemed confidential information.
- 9.3** The confidentiality obligations remain effective for a period of five years after the termination of these Terms of Use.

### **Article 10 Data Protection**

- 10.1** The Supplier authorizes Belimo to collect, use, transfer, store or in other ways handle (altogether "to Process") data relating to an identified or identifiable person or legal entity ("Personal Data"). Furthermore Belimo has the right to Process Personal Data also abroad in accordance with applicable laws. Belimo obliges all subcontractors which Process Personal Data to observe these terms.

### **Article 11 Special Terms Regarding Abuse**

- 11.1** If the Supplier has reason to believe that unauthorized parties have taken notice of his Login Credentials, the Supplier has to immediately change the Login Credentials and inform Belimo. If a third party uses the Supplier's Login Credentials, the submitted electronic messages will be attributed to the Supplier.
- 11.2** In case of a damage by unauthorized access, this damage will only be compensated by the Parties if one Party caused the damage demonstrably grossly negligent or by willful act.
- 11.3** In case of an abuse caused by the Supplier, Belimo reserves the right to immediately block the portal without any prior notification. Supplier access may also be blocked if the Supplier does not adhere to the security measures described in these Terms of Use.
- 11.4** Blocking the electronic supplier portal does not affect the procurement agreement.

### **Article 12 Limitation of Liability**

- 12.1** The Parties liability under these Terms of Use for electronic telecommunication is subject to the provisions stated in the respective Procurement Agreement. Further liability is excluded. In particular the Supplier is liable to Belimo for faithful and correct details on his supplier portal. If a procurement agreement with the Supplier has not been concluded, the Belimo General Terms of Purchase apply. Any further liability of Belimo is excluded as far as permitted by law.

### **Article 13 Changes of the Terms of Use**

- 13.1** Belimo reserves the right to unilaterally adjust these Terms of Use at any time. Changes will be communicated to the Supplier in advance.

### **Article 14 Period of Validity and Termination**

- 14.1** The Terms of Use are valid for an unlimited time period.
- 14.2** The Terms of Use can be terminated by either Party at any time, with a three month period of notice to the end of a month.
- 14.3** Existing Procurement Agreements are not affected by a termination of these Terms of Use and remain in effect unchanged.

## TERMS OF USE OF THE SUPPLIER PORTAL

- 14.4 In case of a notice of dismissal of the Procurement Agreement, these Terms of Use will end simultaneous with the Procurement Agreement.
- 14.5 With the termination of these Terms of Use the supplier's access to the supplier portal will get blocked.
- 14.6 In case of a contradiction between these Terms of Use and the Procurement Agreement, the Procurement Agreement will prevail.

### **Article 15      Applicable Law and Place of Jurisdiction**

- 15.1 This contract is governed by Swiss law excluding its conflict rules and the Vienna Sales Convention (CISG).

**Exclusive place of jurisdiction for any disputes arising from or in connection with these Terms of Use is Hinwil. The Commercial Court of Zürich (Handelsgericht des Kantons Zürich) shall have material jurisdiction (sachliche Zuständigkeit). Belimo has the right to appeal to any other responsible court.**