

General Terms and Conditions (GTC)

(The currently valid GTC are available online.)



1. Scope

These General Terms and Conditions are applicable for deliveries and services of BELIMO

Automation Handelsgesellschaft m.b.H., FN 37854v, Brunner Straße 63/20, 1230 Vienna (hereinafter "BELIMO") to the client.

If the customer requests a delivery or service abroad, the contract will be concluded with the local BELIMO company in that country or with a BELIMO company named by BELIMO in the order confirmation. In such a case, the General Terms and Conditions of the BELIMO company named in the order confirmation will be applicable. Should our delivery also include Software and accompanying documentation, the relevant licence conditions shall apply. However, these General Terms and Conditions of Business shall also apply in addition to the licence conditions.

These GTC shall apply to all legal transactions and legal relationships between the client and the contractor, not only to the first legal transaction, but also to any and all additional and follow-up orders as well as further legal transactions. Our terms and conditions shall apply exclusively to all contracts entered into with us. The client's terms and conditions of purchase and terms of business do not form part of the contract and are expressly excluded. We hereby affirm that we wish to contract exclusively in accordance with these GTC.

2. Creation of the contract

The contract is deemed to be created upon receipt of an order confirmation by the client or, in the absence of such confirmation, upon the picking of the ordered products by BELIMO. All catalogues, brochures and publications on the Internet shall be deemed to be an invitation to offer and shall not be binding on BELIMO.

Modifications or additions to these GTC or to the contract are invalid without written approval by BELIMO. Orders that deviate from the specifications published by BELIMO or that contain additions or modifications made by the client shall only be effective if they have been expressly approved by BELIMO in a written order confirmation.

3. Cancellation of the contract

Orders for catalogue products (standard products) can be cancelled by the client until the ordered products have been picked by BELIMO, provided that BELIMO has received the cancellation notification prior to the time of picking.

Orders for customer products (custom-made products, etc.) can only be cancelled up to four hours after receipt of the order by BELIMO.

In this case, the client will be charged a processing fee of 10% of the net order amount. In the case of custom-made products or configured actuators, the client will be charged a processing fee of 20% of the net order amount.

4. Prices

Unless expressly stated otherwise, all prices are net, excluding VAT.

The net price includes standard packaging of the products ordered. All other costs, such as for transport, insurance, taxes, customs duties and export, import or other necessary permits, shall be invoiced as additional charges. Furthermore, additional services provided by BELIMO, e.g. assembly, commissioning and compilation of diagrams, etc., are not included in the net price. For orders with a net price of less than EUR 220, a small-order surcharge of EUR 110 will be charged.

BELIMO reserves the right to change its prices at any time up to the creation of the contract.

5. Delivery conditions

All times, dates and delivery deadlines shall be considered non-binding unless their binding nature has been expressly agreed in writing. Delivery deadlines and dates expressly agreed in writing as binding shall be deemed to have been met if the product has been made available in the distribution warehouse before the relevant date has passed. If BELIMO has a delay in delivery, it shall be assumed that the client still requires the delivery. Compensation for late delivery or replacement shall be excluded.

Unless otherwise stated on the order confirmation, deliveries shall be made in accordance with Incoterms® 2020 DAP Goods Recipient (DAP = Delivered At Place, delivery address ship-to-party).

BELIMO reserves the right not to deliver the ordered products in the event of their unavailability. In this case, BELIMO will inform the client immediately of the unavailability and refund any payment already made.

6. Payment conditions

BELIMO invoices must be paid in full within 30 days of the invoice date. After expiry of the payment deadline, the client will automatically owe BELIMO a reminder charge of EUR 50 or interest on arrears in accordance with Section 456 of the Austrian Commercial Code (UGB) at 9.2% above the base interest rate p.a. Should the interest on arrears exceed the amount of the reminder charge. Should the client fail to pay, BELIMO reserves the right to withhold further deliveries.

The client is not entitled to offset outstanding accounts from BELIMO with any counterclaims.

7. Application, installation and use of BELIMO products

BELIMO products are intended for professional use only. BELIMO products may only be installed and replaced by trained specialist personnel. BELIMO products must be used in accordance with the specifications of the respective currently valid data and assembly sheet. The use of Belimo Cloud Services is subject to the "Terms of Use for Belimo Cloud Services" as amended from time to time.

8. Specifications

Unless otherwise expressly agreed, the information published by BELIMO in catalogues, brochures, websites, data and assembly sheets or other publications in text or picture form (e.g. illustrations or drawings) exhaustively define the quality of the goods delivered by BELIMO and their possible uses and do not constitute a guarantee of durability or quality.

The quality of the products delivered may differ in terms of material, colour or shape from images or samples. BELIMO accepts no responsibility whatsoever with regard to the suitability or fitness of the products for a particular purpose.

The specifications communicated by BELIMO are only to be regarded as a guideline. BELIMO reserves the right to change the specifications provided for the products or to supply other equivalent products from third-party suppliers instead of the ordered products.

9. Reservation of title

The products delivered shall remain the property of BELIMO until such time as all BELIMO receivables from the client have been settled in full.

10. Passing of risk

Benefit and risk with regard to the products shall pass to the client in accordance with the agreed Incoterms® 2020.

11. Product return

BELIMO may, upon prior agreement, take back catalogue products (standard products), provided that they are still featured in the product range at the time of return and are brand new, i.e. no more than six months old, unused and in their original packaging. BELIMO is not obliged to take back the products. The return of customer products (custom-made products, designed to order, configured actuators), Openline products or products specially procured at the request of the customer is excluded.

Catalogue products must be returned carriage paid to BELIMO

Automation Handelsgesellschaft m.b.H., FN 37854v, Brunner Straße 63/20, 1230 Vienna, enclosing a copy of the invoice and stating the reason for the return.

A processing fee of at least 20 % of the current list price shall be deducted from the credit note agreed with the client. Cash payment of the credit note is excluded. It can only be used as credit against future orders.

12. Duty of examination

The client shall examine all products for defects within 5 working days of receipt. Any defects are to be reported to BELIMO immediately in writing; the product will otherwise be deemed to be approved. Hidden defects must be reported in writing within 5 working days after they are discovered.

13. Warranty

With its warranty, BELIMO guarantees during the warranty period in accordance with this clause 13 that the delivered products meet the specifications explicitly listed on the corresponding data sheets. In all other respects, the warranty is excluded to the extent permitted by law.

In particular, no warranty is given in respect of damages resulting from or partly caused by the client or by third parties acting within the scope of responsibility of the client when

- a) products are used in areas that are not specified in the data and assembly sheets, especially in aircraft and any other airborne means of transport;
- b) products are used without complying with legal or official regulations or disregarding instructions from BELIMO (especially regarding assembly, commissioning, operating instructions and information on the data and assembly sheets);
- c) products are used under special conditions, especially under the continuous influence of aggressive chemicals, gases or liquids or outside of the permissible operating parameters or conditions of use;
- d) products are assembled, handled or installed incorrectly or without due care or not in accordance with current technical standards or the products are not used or installed by trained specialists;
- e) products are modified or repaired without the prior written approval of BELIMO;
- f) products wear out as a result of improper or unintended use or excessive stress;
- g) products are not properly stored; and
- h) the client or third parties are responsible for the damage.

Belimo also offers no warranty for normal wear and tear, including all types of corrosion, operational or environmental wear and tear and similar, insofar as this is not due to defects in materials or workmanship.

Further warranty exclusions apply to Openline products in accordance with the Openline framework agreement concluded between BELIMO and the client.

The client is liable for actions or omissions of auxiliary personnel as for his own actions.

The warranty period is five years from the date of manufacture for BELIMO products. For Openline products, the warranty period is two years from

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the date of delivery. For products not manufactured by BELIMO (trade products), the warranty period shall be as stated in the order confirmation. Trade products are marked as such, either with the manufacturer's name and/or the manufacturer's logo. The warranty period for trade products is generally one year from the date of delivery, in exceptional cases two years from the date of delivery. The warranty period shall commence at the time of manufacture or delivery of the product, without requiring approval or testing by the client. The client shall immediately take all appropriate measures to minimise damage. If timely notification has been provided in accordance with Section 12 above, BELIMO is obliged either to replace defective products with products that are equal or equivalent, to have them repaired either by BELIMO or third parties at BELIMO's expense or to issue the client a credit note in the amount of the net price paid for the defective product. BELIMO shall decide which of these measures will be taken.

The warranty period does not restart from the beginning for replaced products.

BELIMO may require the client to replace certain defective products or parts of products in an installation to prevent damage, whereby reasonable client expenses in this context that are approved in advance in writing by BELIMO will be borne by BELIMO.

14. Limitation of liability

The liability of BELIMO is defined conclusively under Section 13. Any other claims of the client against BELIMO, irrespective of the legal basis, in particular in respect of price reduction or rescission, are expressly excluded and waived.

The client is not entitled to compensation for damage that has not occurred to the products themselves, nor to compensation for such claims from the client's customers or third parties. In particular, BELIMO does not accept any liability for costs incurred in connection with replacement deliveries (transport, disassembly, assembly, recommissioning and associated clarifications, etc.), costs for determining the causes of damage, for expert opinions or for indirect or consequential damage (including consequential damage resulting from a defect) of any kind, such as loss of use, downtimes, loss of returns, loss of profit, etc., and for damages caused by recall actions, insofar as they were not caused by BELIMO intentionally or through gross negligence.

Insofar as the liability of BELIMO is excluded or limited, this shall also apply to the personal liability of its employees, workers, staff, representatives and vicarious agents.

15. Indemnification

On BELIMO's first request, the client shall fully indemnify and hold harmless BELIMO in respect of any third party claim in connection with the events listed under Section 13. This also applies to claims in connection with product liability.

16. Force majeure

Neither BELIMO nor the client shall be liable for any damage of any kind if obstacles arise which they are unable to prevent despite exercising all due care, irrespective of whether these arise with BELIMO, or with the client or a third party. Such obstacles include, for example, epidemics, pandemics, mobilisation, war, riots, significant operational interruptions, accidents, labour disputes, delayed or faulty deliveries of the required raw materials, semi-finished and finished goods, non-availability of important workpieces, governmental measures or omissions, embargoes, export or import restrictions, natural phenomena and events that are largely beyond the control of BELIMO or the client. However, payments may not be withheld or delayed in respect of such circumstances. In such cases, both parties shall, without delay, take all reasonable measures that can be

expected of them to prevent damage, or, if damage occurs, to limit the extent of this damage as far as possible.

17. Resale

In the event the product is resold, the client must impose at least the same limitations of warranty restrictions upon the buyer.

18. Privacy policy

BELIMO is committed to implementing lawful data processing that protects your personal data. BELIMO undertakes to process your personal data in accordance with current legislation. We are dependent on the services of third parties for the provision of our services. These third parties only process your data in connection with the services agreed with BELIMO, they ensure the same level of data protection as BELIMO, and will not disclose your data to other third parties without your consent. When processing your data and transferring data to third parties, BELIMO ensures that an appropriate level of data protection is guaranteed and that appropriate organisational and technical measures are implemented to protect your data. Detailed information about our data protection policy can be found here:

www.belimo.com/privacy.

19. Modifications

BELIMO reserves the right to amend these GTC at any time.

20. Severability clause

In the event that one or more of the aforementioned provisions should be or become invalid, this shall not affect the validity of the remaining provisions.

21. Applicable law and jurisdiction

Austrian law shall apply, excluding the application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Convention).

The ordinary courts at the registered office of BELIMO

Automation Handelsgesellschaft m.b.H., FN 37854v, Brunner Straße 63/20, 1230 Vienna, shall have exclusive jurisdiction over all disputes.