

HIMA Software

License Conditions

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All HIMA products mentioned in this document are protected by the HIMA trademark. Unless otherwise noted, this also applies to other manufacturers and their products referred to herein.

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All technical specifications and notes in this document have been written with great care and effective quality assurance measures have been implemented to ensure their validity. For questions, please contact HIMA directly. HIMA appreciates any suggestion on which information should be included in the document.

Equipment subject to change without notice. HIMA also reserves the right to modify the written material without prior notice.

For further information, refer to the HIMA DVD and our website at <http://www.hima.de> and <http://www.hima.com>.

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Table of Contents

1	Introduction	5
2	License Conditions	5
2.1	Stand-Alone License	5
2.2	Warranty	6
2.3	Payment	6
2.4	Liability	7
2.5	Export Licenses	7
3	License Conditions for Third-Party Software	7

1 Introduction

Important: Please read carefully!

Installation of this software product constitutes acceptance of the license conditions described below. The license conditions are included within the scope of delivery.

2 License Conditions

General conditions for the provision of software products for automation technology.

2.1 Single-User License

1. The Customer is supplied with the software products detailed in the confirmation of order/software product sheet (hereinafter referred to as Software) on the data medium indicated therein. The documentation accompanying the Software is supplied with the Software.
2. HIMA Paul Hildebrandt GmbH (hereinafter referred to as HIMA) is the licensor of the Software.
3. For an unlimited period of time, the Customer is granted the non-exclusive right to use the Software for programming the control and feedback control systems acquired from HIMA, however each of the Software supplied to the Customer may only be used on one device at a time.
4. Unless otherwise specified on the data medium, the Customer may make a single copy of each sample of the Software and only use it for backup purposes. The Customer may only provide the Software to third parties with HIMA's prior written permission. The duplication of the Software is not permitted.
5. The Customer may not modify, reverse engineer or translate the software, nor may he/she extract portions therefrom. Furthermore, the Customer is not allowed to remove alphanumeric identifiers, trademarks or copyright notices from the data media and must reproduce them without changes when creating backup copies. The aforementioned stipulation also applies to the documents supplied as of Chapter 2.1 (Section 1).
6. If reasonable, the Customer who installs the Software must test the generated code in the target system to ensure that damages due to the direct or indirect use of the Software are avoided as far as possible. The impact of potential damages must be reduced to a minimum. The tests must be performed before the Customer starts up the programmed system.
7. The Customer creates the conditions to minimize potential damages (e.g., through daily data backups).
8. The Customer is aware that - e.g., by virtue of its nature or its application - the Software and accompanying documentation may be subject to an export license in accordance with the German Foreign Trade Law. The Customer is responsible for obtaining the necessary export licenses and only delivering the software in compliance with the terms of such licenses.

2.2 Warranty

1. To ensure safety and availability for a programmed controller, the restrictions described in the release notes for the engineering tool and operating systems must be strictly observed!
2. Faulty data media are replaced by HIMA.
3. Reproducible deviations from the relevant documentation demonstrated by the Customer and appearing in the last data medium delivered to the Customer are deemed to be Software errors.
4. HIMA will remove errors by delivering a data medium with the new product release (update/upgrade). Until a new product release is delivered, HIMA will provide an interim solution to work around the errors, as far as it is feasible at reasonable costs and the Customer is not able to process imperative jobs due to such defects.
5. HIMA will determine if error and fault diagnostics and recovery are performed at the Customer's or at HIMA's premises. If a maintenance or service agreement exists between the Customer and HIMA, error and fault diagnostics and recovery may, in accordance with prior agreement with the Customer, be performed at the installation site of the control components upon which the Software is used in accordance with Chapter 2.1 (Section 3).
6. The Customer will provide HIMA with all the existing documents and information necessary for removing the error. If HIMA removes the error at the Customer's premises, the Customer will supply the relevant hardware and software free of charge, and provide the appropriate working conditions with suitable operating personnel so that work can be performed efficiently. If no maintenance or service agreement has been stipulated, the Customer will reimburse HIMA for any traveling and accommodation costs incurred for sending personnel to the installation site.
7. If errors or faults cannot be removed within a reasonable period of time or worked around so as to be acceptable by the Customer, the Customer may demand a price reduction or cancel the contract.
8. The warranty period for each Software as of Chapter 2.1 (Section 1) is 12 months from the date of delivery of the Software (data medium) to the Customer, or from the date of notification of readiness for dispatch.
9. Any other warranty claims are excluded, unless mandatory due to willful intent, gross negligence or the absence of guaranteed properties.

2.3 Payment

1. HIMA will invoice separately at the rates in force at the time for the following:
 - Support with the start-up of the Software.
 - Support with analyzing and correcting disfunctions due to improper use or any other circumstance not attributable to the Software.
2. Payment must be effected immediately upon delivery or completion of service and receipt of invoice.

2.4 Liability

1. If for reasons attributable to HIMA, HIMA is responsible for a delay in delivering the Software and corresponding documentation as specified in Chapter 2.1 (Section 1) and the Customer is not able to use the Software for the intended purpose, the Customer may claim damages of 0.5 % of the Software price for every completed week of delay up to a maximum compensation of 5 % of the Software price provided he/she can demonstrate losses suffered from such a delay.
2. HIMA cannot be made liable for delays due to the following reasons: mobilization, war, turmoil, strike or lockout.
3. If attributable to HIMA, HIMA is liable for personnel injury or damage to property up to an amount of EUR 10,000.- per event. If data media are lost or damaged, HIMA is not obliged to compensate for the restoration of lost data.
4. Any further claims for damages from the Customer other than those expressly specified in this Contract, whatever the cause in law, in particular, arising from loss or damage from consultation, support during the implementation of the Software or due to software errors, are excluded insofar as liability is not binding, e.g., in cases of damage to privately used items, willful intent, gross negligence or the absence of guaranteed properties.

2.5 Export Licenses

1. Export of the Software, including the corresponding data and documentation may be subject to approval, e.g., by virtue of its nature or its application.
2. Collateral agreements must be in writing.
3. This agreement is subject to German law. The place of jurisdiction is Mannheim.
4. Should any stipulation within this agreement be or become void, the validity of the remaining provisions is not affected. A fair and reasonable provision shall replace the void stipulation, or supplement gaps within this agreement. This provision shall approximate the intentions of the parties as closely as possible in accordance with their stated economic objectives.

3 License Conditions for Third-Party Software

HIMA products may also include third-party Software. They are intellectual property of the corresponding copyright owner. Additional information on third-party code contained in the product, including valid copyright, legal and license information, is provided in the online help.

The use and transfer of this software is only allowed within the scope of the valid license terms. In accordance with the corresponding license terms, source code of open source software can be requested at support@hima.com.

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For a detailed list of all subsidiaries and representatives,
refer to: www.hima.com/contact

