

Manufacturing Operations Management (MOM) Software

Product Specific Terms

Siemens Product Lifecycle Management Software Inc., or one of its Siemens Industry Software affiliated companies (collectively referred to herein as “SISW”), has entered into a software license and services agreement with a customer for SISW software, which may have taken the form of a written agreement signed by both parties or a click-wrap or online agreement agreed to by the customer electronically (referred to herein as the “Agreement”). These terms and conditions (the “MOM Amendment”) are specific to Manufacturing Operations Management Software (“MOM Software”) and not to any other software offered by SISW. These terms are additional to the terms in the Agreement and, to the extent that these terms are in conflict with the terms of the Agreement, these terms will take precedence and supersede the terms of the Agreement with respect to MOM Software.

The additional MOM Software terms and conditions are as follows:

- 1. DEFINITIONS.** Capitalized terms used in this Amendment shall have the same meaning as defined in the Agreement unless they are otherwise defined in this Amendment. The following definitions are specific to MOM Software and not to any other Software provided under the Agreement:
 - 1.1** “Active User” licenses shall have the meaning defined in Section 2 below. For Purposes of Active User licenses of MOM Software the terms “Territory” and “Authorized Users”, as defined in the Agreement, shall not apply.
 - 1.2** “Credits” refer to additional license rights which can be ordered from SISW for specific Simatic IT Software as part of the MOM Software to allow different configurations (e.g. for a defined number of users in the case of “concurrent user” licenses, for a defined number of configuration elements such as “Equipment”, or for a number of clients in the case of per product licenses).
 - 1.3** “Equipment” shall mean any physical device which is configured inside MOM Software products, and that exchanges data with MOM Software products, in an automated way.
 - 1.4** “Incident Report (IR)” shall mean a query of the Customer related to MOM Software which is dealt with within the scope of this MOM Amendment.
 - 1.5** “MOM Software” means all software sold by SISW belonging to the PL Business Segment Manufacturing Operations Management (MOM) except Unicam and Automation Designer Software
 - 1.6** “Location” where applicable, means the Customer location specified in an LSDA. A Customer may have multiple Locations and each Location will have a specific number of licenses of the MOM Software associated with it. Each license is limited to use by the Customer for the benefit of the Locations associated with the license. Notwithstanding anything to the contrary in the Agreement, Customer may not transfer MOM Software licenses to a different Location without SISW’s prior written consent.
 - 1.7** “Multiplexing” means the use of hardware or software to pool connections, reroute information, or reduce the number of users that directly access or use the MOM Software (sometimes referred to as “pooling”).
 - 1.8** “Targeted Response Time” shall mean the targeted time between the receipt of the Incident Report via one of the agreed communication channels (e.g. Siemens GTAC Web Support, direct phone support, etc.) in accordance with this MOM Amendment and the first communication of a member of Siemens Technical Support with the Customer by e-mail, phone or web interaction, taking into account the availability periods for the contracted support service level (Bronze/Standard, Silver/Advanced or Gold/Premium).
 - 1.9** “Users” means the employees of Customer, and employees of Customer's consultants, agents, and contractors who are not competitors of SISW provided that the consultant, agent or contractor has agreed in writing to restrictions on the use of the Software and obligations of confidentiality and nondisclosure no less stringent than those set forth in the Agreement. The term Users also includes devices that are connected to the MOM Software including, but not limited to, Web-based user interfaces, browser connections, shop floor Terminals (PCs), shop floor devices Multiplexed through a single PC – including RF Devices, Data Collection Terminals, mobile devices, Windows CE terminals, and interface connections to or from the MOM Software installed at a specific Location.
- 2. LICENSE TYPES.** Section 2.3 of the Agreement is hereby amended to add the following license types and additional rules which are available with respect to MOM Software:

- 2.1 “**Active User**” licenses means that access to the MOM Software will be limited to the maximum number of Users for which licenses have been validly acquired under the Agreement for a specific Location. Multiplexing shall not reduce the number of Active User licenses; each individual logged into, or device connected to, a Multiplexing device counts as one Active User license.
- 2.2 “**Credits**”. The scope of use for some products of MOM Software is generally defined by the number of Credits acquired. The Customer may use the respective Simatic IT Software for which Customer has acquired the corresponding number of Credits.
3. **SOFTWARE MAINTENANCE AND SUPPORT TERMS AND CONDITONS.** The following terms and conditions shall apply for maintenance and support services for MOM Software and will as such amend the respective provisions of the Agreement. The terms and conditions contained herein shall prevail over those of the Agreement.
- 3.1 **Maintenance Term.** Purchase of maintenance services for a Location is subject to purchase of Support Services of the same standard (Bronze/Standard, Silver/Advanced, Gold/Premium) for all MOM Software licensed for use at that Location.
- 3.2 **Bronze/Standard Support Services.**
- 3.2.1 **Online Support.** Bronze/Standard Support Customers are authorized to create, manage and review Incident Reports online. Access to the Siemens Technical Support Website (www.siemens.com/gtac), including the Siemens Software knowledge base, location of the closest proximity Siemens Technical Support Center and Documentation, is available twenty four hours per day/seven days per week (“24/7”).
- 3.2.2 **Telephone Support.** Bronze/Standard Support Customers may contact the Siemens Technical Support Center in closest proximity to the applicable Location or Territory with issues or questions from 0800-1700 hours during normal business hours of the corresponding Siemens Technical Support Center. Customer shall provide SISW with sufficient information about a suspected problem or error and the circumstances under which it occurred for SISW to recreate the problem on SISW’s systems. Telephone support is provided in English; other languages may be available at the sole discretion of SISW.
- 3.2.3 **Technical Contacts.** Customers will designate a minimum of two (2) Customer employees as named technical contacts who have received training from SISW on the respective MOM Software. These designated technical contacts will be the primary contacts at the Customer’s premises who will contact SISW for Support Services. In addition, one Customer technical contact must be participating at the time SISW provides any Support Services. Customer’s initial designated technical contacts may be changed from time to time by providing advanced written notice to SISW.
- 3.2.4 **Access and Data.** SISW is able to provide support services through remote connection upon request and in mutual agreement between the Customer and SISW. Customer shall provide SISW with secure remote access to Customer’s computer systems that are running the MOM Software. The access protocols and passwords to be used for this access will be determined by each party’s technical contacts from time to time. Customer shall provide SISW with copies of Customer data upon SISW’s reasonable request in order to provide the Support Services.
- 3.3 **Silver/Advanced Support Service.** Silver/Advanced Support Customers will receive all of the benefits of Bronze/Standard Support plus the following additional benefits.
- Emergency/Critical Support Service.** Emergency support will be available 24/5 (from Monday 00:00am to Friday 11:59pm) solely to address **Critical priority** situations in which Customer’s MOM Software production installation ceases to function entirely or causes a severe disruption to the Customer’s operations. The 24 hour support service hotline should only be used outside of normal business hours for the applicable Siemens Technical Support Center; Customer must contact the Siemens Technical Support Center directly during normal business hours.
- 3.4 **Gold/Premium Support Service.** Gold/Prermium Support Customers will receive all of the benefits of Silver/Advanced Support plus the following additional benefits:
- 3.4.1 **Emergency/Critical Support Service.** Emergency support will be available 24/7 solely to address Critical priority situations in which Customer’s MOM Software production installation ceases to function entirely or causes a severe disruption to the Customer’s operations. The 24 hour support service hotline should only be used outside of normal business hours for the applicable Siemens Technical Support Center; Customer must contact the Siemens Technical Support Center directly during normal business hours.
- 3.4.2 **Pre-arranged weekend/holiday support.** Pre-arranged weekend support for High and/or Medium priority calls is permitted for implementation or upgrade go-live situations, limited to 2 times/year per Customer Location.

3.5 Other general Maintenance Provisions

3.5.1 Prioritization of Support Services. SISW will use commercially reasonable efforts to provide prompt Support Services on a first come/first serve basis. Incident Reports are automatically escalated to the appropriate resources within SISW based on severity and complexity. The Customer shall classify each Incident Report according to the following priority classes and according to the impact(s) to its business. If a priority class is not defined by the Customer, it is by default considered to be “General”.

(a) Priority Classes:

- **Critical**
This priority is reserved exclusively for incidents in which the Customer’s production system is down or the Customer intends to initially start his production system very soon and this issue will prevent the production system to start operations. Targeted Response Time for Critical incidents is 4 hours for Bronze/Standard Support, 2 hours for Silver/Advanced and 1 hour for Gold/Premium Support tiers.
- **High**
This priority shall be used for situations where there is a severe functionality loss, but the Customer’s production system remains operational and processing can continue. Targeted Response Time for High priority incidents is 8 hours for all support tiers.
- **Medium/General**
A functionality error has occurred but processing can still continue, or a non-business critical function is not performing properly. Targeted Response Time for Medium/General priority incidents is 2 days for all support tiers.
- **Low**
Request for service or information or a problem of minor impact has been identified. Targeted Response Time for Low priority incidents is 5 days for all support tiers.

(b) Final incident classification shall be at the sole discretion of SISW.

3.5.2 Operating Environment: No Modifications. This Support Schedule applies only to the operation of the MOM Software when used under the conditions and in the environment for which it was designed as described in the Agreement and the MOM Software Documentation. SISW is not required to provide Support Services if the MOM Software has been modified or altered by anyone other than SISW unless such alteration was made at SISW’s express direction. Supported configurations and hardware environments are documented at www.siemens.com/gtac.

3.5.3 Inability to Correct. If SISW is unable to correct a material nonconformity between the MOM Software and its Documentation within a reasonable time, Customer may, as its sole remedy, terminate the Support Services and receive a refund of the remaining, unused balance of the fees for Support Services or Subscription under the terms of the Agreement.

3.5.4 Extended Support. SISW will make Extended Support generally available for 24 months after the expiration of mainstream support. Extended Support may be subject to an additional fee.

3.5.5 End of Life Support. “End of Life” products are MOM Software products that are generally no longer distributed and supported by SISW and which are not covered by mainstream or Extended Support services. End of Life Support may be subject to an additional fee. If not otherwise specified, support is restricted to commercially reasonable efforts only. No Target Response Time shall apply to End of Life Incidents.

3.5.6 Additional Services. Services outside the Customer’s support level or outside the scope of this Support Schedule, such as but not limited to Support Services after the end of mainstream support, may be available from time to time for additional fees.

3.5.7 Third Party Software. SISW only certifies that Third Party Software will function in conjunction with the MOM Software in accordance with its related Documentation. Any other use of Third Party Software by Customer, whether as a stand-alone product or in conjunction with the MOM Software, has not been tested and is not certified by SISW. While SISW may assist Customer with the interoperability of Third Party Software with the MOM Software, SISW has no obligation to support Third Party Software.