

General Terms & Conditions – CMX Edge License, Support & Update Plan

I. Application

The following General Terms & Conditions – CMX Edge License, Support & Update Plan govern contracts on support packages in the form of the CMX Edge License, Support & Update Plan (hereinafter called “Package”). They are applicable exclusively vis-à-vis companies and public authorities. In entering into the contract, the customer agrees to be bound by our General Terms & Conditions – CMX Edge License, Support & Update Plan. We expressly oppose any terms that contradict our General Terms & Conditions – CMX Edge License, Support & Update Plan; they shall not apply unless we have agreed to them in writing. Where the requirement of the written form is set out in these terms and conditions, it shall also be deemed to be satisfied where transmission takes place by means of telecommunications (e-mail, telefax).

II. Requirements to be satisfied for Packages

In order to conclude a contract for a Package, the customer must either already own a license for one of the following software products or acquire one with the Package:

- HYDAC CMX Edge – preinstalled locally on an Edge device on which the CMX software runs. The software may only be used on this Edge device.
- HYDAC CMX SaaS – cloud-based CMX software that is also able to take the data collected from multiple Edge devices and merge and process it, enabling it to be used via the Internet in a hardware-independent manner (Software as a Service).
- HYDAC CMX Local Server – CMX software that runs on a server belonging to the customer that is able to take the data collected from multiple Edge devices, merge and process it, enabling it to be used from a connected network or the Internet (on-premises).

Concluding a contract for a Package alone is not possible.

III. Subject matter of the contract

1. The customer is granted the right, during the term of the contract, to use the HYDAC CMX+ Edge software including the documentation (description of the software product, software and/or user manual in text form) for a limited period of time in exchange for the payment of a fee. The software is an enhanced version (“+”) of HYDAC CMX Edge. With the software the customer is able to use — on an agreed number of Edge devices on which HYDAC CMX Edge is installed — an agreed number of data points larger than the five data points supported by HYDAC CMX Edge. The terms and conditions of HYDAC CMX+ Edge shall apply in addition to these General Terms & Conditions – CMX Edge License, Support & Update Plan (Appendix 1).
2. The customer will also be provided with updates (cf. clause IV.) and support (cf. clause V.) for HYDAC CMX+ Edge, HYDAC CMX SaaS and HYDAC CMX Local Server, provided that the customer has a license for the respective software product.

IV. Updates

1. We shall be entitled to further develop HYDAC CMX+ Edge, HYDAC CMX SaaS and HYDAC CMX Local Server and tech-

nologically improve them by way of updates and make the updates available to the customer.

2. We will notify the customer when an update is released for HYDAC CMX+ Edge and HYDAC CMX Local Server and advise the customer of the changes that have been implemented. The customer will then be able to decide whether it wishes to install the update for the software used by it. In the event that the customer decides against an update, it may take advantage of subsequent updates provided that it applies the missing updates first.
3. As to HYDAC CMX SaaS, we will determine the scope of performance of the software at our reasonably exercised discretion. Before activating an update we will notify the customer as early as possible of the scope of changes that will be implemented. In the event that changes should be unreasonable, and if we uphold the update, the customer may exercise a special termination option with a notice period of two (2) weeks for the next end of the month upon the update being activated.

V. Support

The support services to be provided by us depend on the service level contained in the Package purchased by the customer as set out in Appendix 2 of the attached service level agreement.

VI. Term of contract

1. The contract term amounts to twelve (12) months. The contract term shall commence on the agreed date and automatically renew for another twelve (12) months where neither of the parties serves notice of termination in a timely manner.
2. The notice period amounts to three (3) months for the end of the current contract term.
3. The foregoing shall be without prejudice to the right of either party to terminate the contract without notice for good cause.
4. The right of the customer to give notice of termination due to a failure to be granted use as provided for by the contract shall be precluded unless restoring use as specified in the contract must be considered to have failed.

VII. License fee, payment of the license fee

1. A monthly license fee is payable throughout the contract term.
2. The amount of the license fee depends on the Package that has been purchased. All prices are quoted exclusive of VAT at the current rate.
3. The license fee is payable for twelve (12) months in advance. Payment is due two (2) weeks before the inception of the contract term or the current renewal term.
4. At the beginning of each contract renewal period we shall be entitled to adjust the license fee at our reasonably exercised discretion, with effect for the future, where this is warranted on account of price trends as shown by the consumer price index of the German Federal Statistical Office, in order to preserve the value of the agreed license fee. We will advise the customer three (3) months in advance in writing of any adjustment in pricing. In this case, the customer shall be entitled to exercise a special termination option, termination to go into effect as of the end of the contract term. This special termination option may

be exercised up to two (2) weeks at the latest prior to the expiration of the contract term.

5. The customer shall not be entitled to offset claims against outstanding amounts owed us, unless the customer's claims for set-off are undisputed or final and non-appealable, or they originate from the same contract as our claim. The customer may assert a right to withhold payment only for claims arising from the same contractual relationship.
6. The customer may not carry out a reduction of the license fee by deducting amounts from agreed license fee payments. This shall be without prejudice to the customer's right to assert relevant unjust enrichment claims or claims for damages.

VIII. Liability and indemnification

1. Unless provided for otherwise below, we disclaim all liability, regardless of the legal grounds on which any such liability may be founded.
2. This disclaimer of liability shall not apply to cases of willful intent or gross negligence. Moreover, it shall also not apply to defects fraudulently concealed or whose absence was guaranteed, or in the case of negligent causation of harm to life, limb and health, or the breach of a material contractual obligation.
3. In the event that we should negligently breach any material contractual obligation, our liability shall be limited to the reasonably foreseeable loss.
4. However, this shall be without prejudice to claims under the German Product Liability Act (ProdHaftG) in any event.
5. We will accept no lump-sum compensation where this is not provided for by law.
6. Where the damage incurred by the customer arises from the loss of data, we disclaim all liability where such loss could have been prevented by the customer making complete backups of all relevant data on a regular basis.

IX. Engaging the services of third parties

We shall be entitled to commission third parties to fulfill our obligations under the contract.

X. Miscellaneous provisions

1. All legal relations between the parties shall be governed and interpreted exclusively in accordance with the laws of the Federal Republic of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. The place of performance shall be the registered office of our company. This shall also be the exclusive place of jurisdiction for all disputes arising from or in connection with the contract where the customer is a merchant. However, we also reserve the right to bring action against the customer at the customer's domicile.
3. The customer agrees to be bound by the principles of our Business Code (available on our website at: www.hydac.com→Company→Business Code).

4. If any of the above provisions should prove void or unenforceable, it shall not affect the validity or enforceability of any other provision hereof.

Appendix 1: Terms applicable to HYDAC CMX+ Edge

Appendix to General Terms & Conditions – CMX Edge License, Support & Update Plan

I. Scope of performance and licensing

1. Requirement for using the HYDAC CMX+ Edge Software (also referred to below in this Appendix 1 as “Software”): it must be previously licensed on the Edge devices. To this end, the customer will receive an equivalent number of license files from us enabling the customer to license the Software on the customer’s own.
2. The licensable number of Edge devices in each individual case and the number of data points currently supported by the Software depend on the agreed Package and the performance capacity of the hardware used by the customer.
3. Otherwise our confirmation of order and the Software specification shall be definitive with regard to the performance to be provided by the Software under the contract.

II. Grant of license for HYDAC CMX+ Edge

1. Under the agreed terms, the customer receives a non-exclusive right, limited to the contract term, to copy the Software onto the licensed Edge devices for use by the customer. Permissible acts of duplication include installation on the storage media of the respective Edge device and transfer of the Software, either in its entirety or in parts, from this storage media to RAM, and then into the CPU of the graphics card of the respective Edge device.
2. The Software may only be used on the Edge devices on which the Software was licensed for the first time. Relicensing on another Edge device shall be subject to our consent.
3. The customer shall not be entitled to make the Software available to a third party, whether in exchange for valuable consideration or in exchange for no consideration, for use by that third party. Consequently, the customer is prohibited from engaging in the following, including, but not limited to, renting, giving, loaning, leasing or selling the Software, unless permitted under an agreement stipulating otherwise.
4. The customer shall not be permitted to remove existing protection mechanisms from the Software preventing its unauthorized use or to circumvent these mechanisms, unless this is permissible under the law.
5. The customer may not decompile the Software without our consent unless consent is not required under the law. Disassembling or reconstructing, i.e. reverse-engineering the Software is not permissible.

III. Customer’s duties to cooperate

1. The customer is obligated to notify us of any functional failures, malfunction or functional impairments of the Software without undue delay and to describe these events as precisely as possible in text form. The terms set out in the Service Level Agreement (Appendix 2 of the General Terms & Conditions – CMX Edge License, Support & Update Plan) shall apply.

2. When describing, narrowing down, establishing and reporting incidents and fault events, the customer must follow the instructions given by us.
3. The customer is to make complete data backups on a regular basis (or have this done by a third party as applicable) and use a current, updated version of virus scanning software.
4. The system requirements set out in the Software specification must be satisfied in the customer’s environment for using the Software. The customer shall bear responsibility for this.

IV. Rights in the event of material defects

1. The legal provisions pertaining to warranty in rental and lease agreements shall apply to the Software. Strict liability for defects that were already present upon the conclusion of the contract shall be exempted.
2. Technical data, specifications and performance data in public statements, including, but not limited to, advertising media, shall not constitute warranted characteristics or features. The functionality of the Software is first based on the description contained in the Software specification and any additional agreements made pertaining to this. Otherwise the Software must be suitable for the designated use set out in the contract and otherwise exhibit the characteristics that are customary for Software of the same type. Claims based on material defects will not be entertained where there are insignificant deviations from the agreed or stipulated characteristics or in the case of only slight impairment of serviceability.
3. We make the Software available and will maintain it in a condition that is suitable for use as provided for by the contract. Our obligation to maintain the Software shall not extend to adapting the Software to changed operating conditions and technical or functional developments such as changes in the IT environment, including, but not limited to, changing the hardware or the operating system, adapting functionality to match that of competitor products, or making the Software compatible with new data formats.
4. No defects in the Software may be claimed especially where the customer makes modifications to the Software or parts thereof personally or has modifications made by third parties without our authorization. The same shall apply to errors attributable to faulty installation work on the part of the customer or software products used by the customer that modify the Software or otherwise impact it.
5. We disclaim all responsibility for the Software’s suitability for use with specific sensors unless this is expressly set out in the Software specification.

V. Expiration of the license

Upon the termination of the contract the Software license shall also expire. The customer may then reuse HYDAC CMX Edge on the previously licensed Edge devices in the version that was installed prior to licensing.

Appendix 2: Service Level Agreement (SLA)

Appendix to General Terms & Conditions – CMX Edge License, Support & Update Plan

The following provisions specify the support services to be provided by us according to the agreed service level.

I. Terms and definitions

- “Business hours” (cf. clause II.1. of this Appendix 2) shall mean the time during which we are obligated to make suitable staff available for the purpose of providing specified support services. Incident reports are processed by us exclusively during working hours. The following are not included in our business hours: public holidays at our registered office and the period from 24 December to 31 December.
- “Incident” shall mean any impairment of the software, e.g. downtimes, errors or degraded quality.
- “Workaround” shall mean a temporary solution shown by us enabling the impact of incidents on the functionality of the software to be circumvented.
- “Response time” shall mean the maximum period between the receipt of an incident report and the time at which a support team member commences with issue analysis or issue resolution in a qualified manner. The response time shall commence with the transmission of the incident report to us including the information as set out in clause II.3 in this Appendix 2. The response time is not equal to the time period within which the request of the customer has been conclusively processed and the issue that was reported has been resolved.
- “Service level” shall mean the agreed level of service, including, but not limited to, the scope of support, response time and processing time.
- The availability of phone support (cf. clause II.1. of this Appendix 2) refers to the hours during which the hotline is manned and requests can be accepted and logged. The availability of phone support is not the same as “business hours”.
- “Knowledgebase” shall mean the online help enabling explanations on functionality to be accessed and printed out while using the software for which the support services are provided.
- All times are in reference to local time in Germany.

II. Incident reports / support requests

1. The acceptance and logging of incident reports and support requests is done only during business hours by way of the following channels:

Service level	BRONZE	SILVER	GOLD	PLATINUM
Access to knowledge-base	x	x	x	x
E-mail	x	x	x	x
Phone support (available exclusively for priority 1 incidents, hereinafter clause II.4.)			x	x
Availability of phone support			Mon–Fri 9am–4pm	Mon–Fri 8am–6pm
Chat support			available as a bolt-on option	available as a bolt-on option
Business hours	Mon–Fri 9am–3pm	Mon–Fri 9am–3pm	Mon–Fri 8am–5pm	Mon–Fri 8am–5pm
Remote maintenance		x	x	x

Requests via e-mail are received around the clock (0:00–24:00) at the e-mail address indicated in the software specification for support requests. However, processing of requests is carried out exclusively during business hours.

2. Only designated key users, IT heads, administrators and the customer’s executive management are entitled to use support services on the part of the customer. When reporting an incident, the persons available as designated contacts for the respective incident are to be indicated as well as how these persons may be reached by phone. The designated contacts are to be indicated so that we are able to be in constant and direct contact with one of them during the customer’s business hours at minimum for the duration of the incident.
3. The customer must ensure that an incident report or support request contains the following information:
 - a) customer’s name and server (sub-domain, e.g. customer_A.hydac-cmx.com),
 - b) detailed description of the issue,
 - c) date and time at which the issue arose,
 - d) actions that have been taken so far to resolve the issue.
4. Incident reports submitted by the customer are classified according to the following priority levels:

Priority 1	Critical issue	The software is not available; key components of the software or the application are not available or the user is severely hampered. No workaround is possible.
Priority 2	Non-critical issue	Individual functions work only to a limited degree or are not available in part. This also applies where a critical issue is present for which a workaround is possible and reasonable.

The criteria applied for classifying an incident as a priority level: the presence of the characteristic features set out in the above definition. If an incident develops further after submit-

Status: 2.6.2021

ting a report to us or if it should disappear, the customer is to advise us of this without undue delay.

5. The response time in the individual service levels is agreed as follows, depending on the priority level of the incident:

Service level	BRONZE	SILVER	GOLD	PLATINUM
Priority 1	3 business days	2 business days	next business day	Same business day (where reported before 12:00 noon)
Priority 2	5 business days	3 business days	2 business days	Next business day

We will inform the customer in a separate communication of the time that processing the customer's incident report or support request is expected to take. When doing this, we will take appropriate account of the priority level, the complexity of the issue and the service level.

III. Services not covered by support

1. Support does not cover the following: impaired data transmission outside of the data network operated by us caused by line failures or disruptions of telecoms providers, for example.
2. Support also does not cover faults and disruptions caused by the customer directly. A fault or disruption caused by the customer includes, but is not limited to, incorrect operation of the software by the customer or where the customer, without our authorization, has made modifications to the software or has made changes to the underlying hardware or software infrastructure.
3. Support also does not include training services.
4. In the case of clauses III.2. and III.3. of this Appendix 2, support services can be made available by agreeing separate remuneration.