

Update and support contract

(version released Dec. 01, 2018)

between

CONTEMPLAS GmbH
Albert-Einstein-Straße 6
87437 Kempten
Deutschland

- hereinafter named „**provider**“ -

and

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

- hereinafter named „**customer**“ -

for following licence(s):

CTP**xxxx** number of camera licences: **x** charges/year **xxxx,-€**

The concluded update und support contract counts for the delivered software and hardware from CONTEMPLAS and contains the following service package you can find in §1:

According to the order 201xxxxx from xx.xx.xxxx

Fees per calendar year: **xxxx,- € (net.)**
Type of agreement: unlimited / limited to **xx.xx.xxxxx.**
Update and support cycle: **01.01. – 31.12.**
Contact person: Mrs. / Mr.

Billing always takes place at the beginning of the update und support cycle and please has to be transferred to the account below, quoting the license number.

The update and support contract shall be concluded on basis of the license agreement below and applies equally to **all** products of CONTEMPLAS, hereinafter referred to as „software“ and „hardware“.

For reason of linguistic simplification, the reference to both sexes is dispensed with where a gender-neutral formulation was not possible. In these cases, the used male terms also include the female forms.

The personal data provided in the contract, in particular name, address, telephone number and bank data, which are necessary and needed for the sole purpose of carrying out the contractual relationship, are charged on basis of statutory rights.

I hereby confirm the accuracy of my personal and company data und that I have read and understood the contractual conditions and the **privacy policy** and accept them.

PRIVACY POLICY

The processing of the data always takes place in accordance with the data protection basic regulation (EU-GDPR) and in compliance with the country-specific data protection regulations valid for CONTEMPLAS GmbH. CONTEMPLAS GmbH undertakes to use the data only for internal processing and not to pass them on to third parties. The person concerned has the RIGHT on contradiction, restriction or deletion of the data at any time. Further explanations can be found at <https://www.contemplas.com/privacy-policy.aspx>

Kempton, xx.xx.2019

place, date

place, date

signature provider / CTP

signature customer

§ 1 Scope of supply and services

1. The customer receives the following services upon conclusion of an update and support contract:
 - a) You will be automatically informed about available updates by e-mail.
 - b) You are protected against unforeseen changes to the operation system.
 - c) You will receive unrestricted support if the software functions run incorrectly.
 - d) You will receive all software versions free of charge within the contract period.
 - e) You are protected against loss of the software if the dongle is lost or stolen.
 - f) In case of a dongle loss, you receive a new dongle from CONTEMPLAS non-bureaucratically sent against a handling fee as well as the currently valid hardware costs and shipping costs. This way you are not forced to purchase a complete new license.
 - g) Your dongle is limited in time in order to prevent an abusive use of the dongle against loss or theft. The dongle license will be automatically renewed during the contract period.
 - h) If the update and support contract is terminated, you will receive a permanently activated license of the last level you have purchased.

2. Update service

The provider publishes a new software version every year and reserves the right to publish one or more subversions in the same year. The versions will be available for download in the customer center.

3. Support service

The support hours are from Monday to Friday: 09.00 - 17.00 o'clock.
The support is provided by:

- a) telephone
- b) e-mail to support@contemplas.com
- c) access to the customer center
- d) remote access

A willingness to care beyond this service time or a personal visit or a service on site requires a special agreement and is to be remunerated separately.

The support services refer to problems which are caused by operating errors of the software or if the proper functioning of the software or hardware which are in direct connection with the CONTEMPLAS software is impaired. Furthermore the trouble-free operating with the software should be guaranteed.

There is no right to solve problems that are not the fault of the provider.

The provider offers training courses for a better and more effective operation of the software as well as for the interpretation of the measurement results. This can also be done in cooperation with partners in form of paid seminar series.

Should no update and support contract be desired, the following possibilities for establishing contact exist:

- a) e-mail to support@contemplas.com
 - b) FAQ on our website
 - c) hotline with costs
4. The provider is obligated to examine reproducible software errors reported by the customer and to provide the customer with information in order to eliminate the consequences of the error. An error exists in particular if the software does not fulfil a function specified in its performance description or does not fulfil it correctly or otherwise does not function properly.
 5. Insignificant errors in the software will be corrected by the provider in subsequent software versions.
 6. Other errors only will be eliminated if this is possible with economically reasonable effort. This is not the case if a reprogramming of essential parts of the program is necessary.

Update & support contract

7. The provider undertakes to inform the customer or the personal of the customer once of the type and scope of the work carried out. The provider will inform the customer about planned updates in advance. The same applies if a planned update on the used hardware is not possible.
8. Usually the maintenance operation is carried out by remote maintenance. If exceptionally, direct access to the data processing systems on which the program is installed should become necessary, the provider will contact the customer to clarify all necessary details.
9. Software maintenance is carried out by qualified personal who are familiar with the programs described in the service certificate. The provider shall make available the state of the art tools (test programs, test data, troubleshooting programs, etc.) suitable for the efficient execution of the maintenance operation.
10. The employees of the provider do not enter into a labor condition with the customer. The customer will only give instructions to the responsible employee named by the provider with effect for and against the provider.
11. The involvement of subcontractors is only possible with prior express consent of the customer.
12. The provider will regularly make the latest program version available for download at the customer center for the maintenance of the software supplied.
13. Additional services are not covered by the contract (e.g. installation of the software, individual adaptations requested by the customer, change of hardware or operating system of the customer). The provider shall supply these services at the customer's request against separate payment. The calculation will be based on the hourly rates of the provider valid at the time of execution.
14. The elimination of faults and damage caused by faulty operation, improper handling by the customer and influence of third parties or force majeure is not the subject of this contract. In individual cases it can be agreed against a separate fee. Furthermore, damages and malfunctions caused by environmental conditions at the installation site, by faults or non-performance of the power supply, faulty hardware or other influences for which the supplier is not responsible are not subject of this contract. Such maintenance work will be charged on the basis of the provider's hourly rates generally applicable at the time the order is placed.

§ 2 Obligations of the customer to cooperate

1. The customer will immediately inform the provider of any errors or problems that occur and support the provider in the investigation and elimination of errors within reason. This includes submitting defects reports in text form to the provider at the provider's request and providing other data and protocols that are suitable for analyzing the error.
2. The customer must allow the provider access to the data processing systems on which the described programs in the service certificate are installed. The customer supplies the technical equipment (power supply, telephone connection and data transmission lines) required for the performance of all maintenance operation free of charge to an appropriate extent.
3. The customer appoints a competent employee to the provider, who can supply the information required for the execution of the contract and make or arrange for decisions himself.
4. It is the customer's responsibility to perform proper data backups and to maintain and service the software and hardware environment of the software not covered by the performance certificate properly. The customer must protect the hardware and software in particular against unauthorized access by employees or other third parties, viruses, Trojans and other malware.

§ 3 Compensation / charges

1. The payment for the services supplied by the provider will be invoiced annually. It has to be adjusted in the event of an extension or change to the programs and systems to be maintained.

Update & support contract

2. The costs for the update and support contract are to be paid in advance. After the receipt of payment, the download area in the customer center on the website www.contemplas.com will be activated.
3. The payment of an update and support contract for the respective software packages is composed according to the number of cameras used. The price is independent of other purchased software modules. Your responsible sales partner or CONTEMPLAS will be happy to make you an offer. If the number of cameras increases during the running time, the update fee will be adjusted in the following cycle. There will be no backdated recalculation.
4. All expenses, in particular travel and accommodation expenses, shall be invoiced separately.
5. The provider is entitled to an appropriate increase of the agreed flat rate after announcement in text form. Such an increase shall take effect at the earliest 3 months after the end of the month in which the provider has notified the change. It may not exceed the fee of the preceding twelve-month period by more than 20%. If the customer does not agree with the adjustment, he can terminate this contract with one month's notice to the day of the entry into force of the new fee in text form. If no notice of termination is given, the increase will be deemed silently accepted and the deadlines specified in §7 are valid.
6. All mentioned prices are net prices and are valid plus the legal value added tax of currently 19%.

§ 4 Confidentiality and data protection

1. Both parties shall maintain secrecy about all business and operational matters of which they become aware and shall treat all information in connection with the performance of this contract as strictly confidential even beyond the expiration of this contract. The same applies to personal data which fall under the provisions of the data protection laws.
2. The provider undertakes not to collect, store or reproduce information, documents or data or to use or exploit them in any form other than for maintenance purposes. The stored data are to be deleted when they are no longer needed. This does not apply as long as the legal regulation permits the storage of data.
3. The provider undertakes to instruct his personal correspondingly and to obligate them to observe with the agreement or secrecy separately in the form.
4. In case of remote maintenance or the use of subcontractors, appropriate measures for the protection of personal data have to be agreed between the parties in a separate contract for order processing.

§ 5 Right of use

1. The customer receives a simple, non-exclusive and non-transferable right of use for the contractual items, which the provider transfers to him within the scope of his maintenance obligations under this contract (e.g. updates and additional program manuals).

§ 6 Defects liability

1. The provider guarantees that the contractual software has the specified functions of the scope of service in §1 during the term of contract.
2. The guarantee does NOT apply to hardware ordered via intermediaries and contractual partners, because these are subject to the legal guarantees periods. A separate contract can be concluded for this on request.
3. The provider performs the taken over work with largest care and according to the latest state of the art of proven technology.

4. Guarantee claims of the customer fall under the statute of limitations within a period of one year beginning from the date of delivery.

§ 7 Duration of the contract and determination

1. The contract starts with its signature by both parties.
2. The update and support contract may be terminated by the contracting parties at any time in writing (by fax, e-mail or post) with a notice period of 3 months prior to expiry of the contract, i.e. by 30.09.20xx. If no notice of termination is given, the contract will always be automatically extended for a period of further 12 months.
3. The contract may be terminated by each party without notice because of an important reason. An important reason exists in particular, e.g. if the customer is no longer able to continue using the software due to force major, if the provider repeatedly exceeds the contractually guaranteed reaction time or the time to remedy the defect significantly. Even though the financial situation of the respective other party deteriorates significantly, in particular if insolvency proceedings are opened against the assets of the respective other party or rejected for lack of assets. Termination without notice is also possible if continuation of the contract cannot be reasonably expected of the terminating party, taking into account all circumstances of the individual case and weighing the interests of both parties to the contract.
4. Each termination requires the text form for its validity (§ 126b BGB).
5. After termination of the contract, the customer loses the protection against loss and theft of the dongle. In such a case, the customer has to purchase a new license with a discount of 20% of the current list price.

§ 8 Severability clause and other

1. Should individual provisions of this contract be or become invalid, or should an essential point not be regulated, the validity of the remaining provisions shall remain unaffected.
2. Modifications and additions to this contract are only effective in written form and with reference to this contract and have to be signed by both parties.
3. Place of execution and jurisdiction for all disputes arising from this contract is the place of business of the provider if the customer is a merchant or legal person under public law or has no general jurisdiction in the territory of the Federal of Republic of Germany. The provider is also authorized to sue at any other statutory place of jurisdiction.