Terms and Conditions of UpdateNode.com

German Version

I. General Information

1. Information about the Seller

UpdateNode UG (haftungsbeschränkt)
Director: Mr. Lukas Herbst
Address: Forellenweg 12, Germany-82178 Puchheim
VAT ID No.: DE-293058847
Tel / Fax: +49 (0)89 41602641
Email: updatenode@turningtechnologies.com
Homepage: http://www.updatenode.com

2. Scope

(1) The following Terms and Conditions apply to all business relations between us and the customer. These Terms and Conditions are applicable upon initiation of a valid contract. This document can be printed through your browser, saved or directly downloaded here as a PDF file.

(2) Consumers („Verbraucher“) under these Terms and Conditions are natural persons who will enter into a business relationship without being considered a commercial or independent professional activity.
Businesses („Unternehmer“) under these Terms and Conditions are natural or legal persons or partnerships with legal personality, which will enter into a business relationship undergoing commercial or independent professional activity.
Customers under these Terms and Conditions are both consumers and businesses.

(3) Our Terms of Sale shall apply exclusively; we do not recognize conflicting or deviating conditions from our Terms of Sale, unless we have expressly agreed to their validity in writing. Our Terms and Conditions apply even if we execute a delivery with knowledge that the customer has Terms conflicting with or deviating from our Terms, if nothing is stated otherwise.

3. Changes in Terms and Conditions of Use

(1) The seller reserves the right to effectively change these Terms and Conditions of Use at any time even within the existing contractual agreement. With any such changes, the seller will alert you at least 30 calendar days prior to the scheduled execution of the change. If you do not object within 30 days of receipt of the notification and continue to use the services even after the expiration of the objection period, the changes are agreed to be effective after the expiration. In the case of objection, the contract shall be continued at the present conditions until the end of its term. With such notice of change, the seller will advise you of your rights to objection and to its consequences.

(2) With changes in sales tax, the seller is entitled to make corresponding adjustments without heeding the aforementioned right to object.

II Registration and End of Contract

4. Registration and Usage Data

(1) The use of the available services on the portal implements your registration as a participant. You are not entitled to participation. The service provider reserves the right to reject requests to participate without giving reasons. The user is required to provide correct and complete information during the registration process. Use is limited to one free access per natural person or company. Any access may only be used by one natural person.

(2) The application is only allowed for those who are of legal age and who are under unrestricted legal capacity. Underage persons are prohibited to register. For legal entities, the registration must be completed by a duly authorized individual with

unrestricted legal capacity. Business status must be confirmed through the self-developed software description and through the sharing of business contact information.

5. Your Registration

(1) The use of UpdateNode is free for the first month. To register, only an active e-mail address and a self-selected username is required. Upon receipt of the confirmation e-mail, you are entitled to use the portal according to these Terms and Conditions of Use. In order to confirm your account and gain access, you must click on the link contained in the e-mail. (so-called double opt-in).

(2) After your free month has expired, the use of UpdateNode ends automatically if you have not subscribed to the paid offer. If you want to use the paid service, completely fill out the order form on the Internet Site and then click the button "Order Now". You will be redirected to the PayPal site where you will complete the checkout process, or cancel. In both cases, you will be redirected to the original page.

(3) Upon registering for a paid version, all inputted information from the customer will be verified for completeness and plausibility. You can correct this information via the „change“-Buttons. With your click on the „Pay now“-Button you submit a binding declaration to agree to our binding offer to our supply of UpdateNode, with you being liable to pay the costs. If the information in our view is correct and there are no other concerns, you will receive an email containing a receipt of payment confirmation, wherewith your account will simultaneously be unlocked. This confirmation once again points out all the essential points of the contract. These Terms and Conditions and the revocation notice can be read anytime in your account.

(4) The submitted order, including these Terms and Conditions, can be saved by a customer by clicking the button "Download". The document is a PDF document and can be saved on a disk you have selected (e.g. Saved onto the hard drive of your computer). By clicking the button "Print" the customer can print the Order submitted, including these Terms and Conditions.

(5) After leaving the ordering process, the order information is stored by the seller and may be inspected by the customer in the customer's account at any time.

(6) We use the data and information provided to us in order to perform and fulfill the desired contract. In particular, we give the data, to the extent of necessity for the execution of payment, to the proper credit card company as well as to entrusted collection companies.

(7) The ordering language is English.

6. Information on revocation right

Consumers with paid accounts have the following revocation right:

Information on revocation right

You can revoke your offer to the contract within 14 days without giving any reasons in text form (e.g. Letter, Facsimile, E-Mail). The term starts after receiving this information in text form, however not before conclusion of the contract and not before fulfilment of our information duties acc. Article 26 § 2 in connection with § 1 paragraph 1 and 2 EGBGB as well as our duties acc. § 312g paragraph 1 sentence 1 BGB in connection with article 246 § 3 EGBGB. To meet the revocation deadline it is sufficient to dispatch the revocation with the deadline. The revocation has to be sent to:

UpdateNode UG (haftungsbeschränkt)
Herrn Lukas Herbst
Forellenweg 12
DE-82178 Puchheim

Facsimile: +49 (0)89 41602641
E-Mail: updatenode@turningtechnologies.com

Consequences of the revocation:
In case of a valid revocation, the mutually received services are to be returned and eventually drawn utilizations (e.g. interests) to be transferred. If the received services as well as utilizations (e.g. compensation for use) can not or not completely or only in worsened condition be returned or released, you are obliged to pay compensation for lost value. This can lead to your obligation to fulfil the contractual obligations of payment for the time period until the revocation. Obligations to compensate payments have to be fulfilled within 30 days. The deadline starts for you with dispatch of your revocation notice, for us with receipt of your revocation notice.

Special notes
Your revocation right expire ahead of schedule, if the contract has been fulfilled completely by both parties on your

explicit request, if you haven't executed your revocation right earlier on.

Fill out the following Revocation Template and send it back to us in order to revoke.

End of the Information on revocation right

7. Remuneration

(1) Our offers are subject to chance. The offered price is binding. The stated prices are the final prices and include taxes.

(2) When a customer orders by using the means of distance communication, no additional costs are incurred. Payment is completed by PayPal or invoice on payment in advance.

(3) Compensation is only granted with undisputed or legally founded counterclaims. A right to refuse performance until counter-performance is effectedcan only be claimed if it is based on the same contractual relationship.

(4) For open source software, the following special rules apply:

UpdateNode is completely free of charge for Open Source projects. We love open source and are ready to support community projects. Before marking your product as Open Source, please ensure your project/product meets the following criteria:

- The project is licensed under an approved license from the Open Source Initiative.
- Your project source code is available for download to the public.
- You do not have commercial products related to the Open Source project you are requesting a license for.
- You are the project lead, or part of the main development team.
- You keep your project site up to date.
- You release updated builds on a regular basis.

If you have declared your commercial product as an Open Source product, we will ask you to change the status to commercial and pay the according fee. If this is not accomplished within two weeks after notification, we will deactivate your account. In doing so, your registered products will be blocked on UpdateNode.

8. End of Contract

(1) The contract has a term of 12 months. After expiration, the contract ends automatically. In order to extend the contract, you can order a subscription to UpdateNode as described above.

(2) Your accumulated usage data of UpdateNode will be retained for 12 months after the contract ends and then deleted. When you renew a paid subscription during this period, you can continue to use this data unchanged.

III. Content of UpdateNode

9. Subject-matter of the Contract

(1) The seller provides software vendors the service "UpdateNode", which can be incorporated into an existing software product through the automatic software updates. With the help of UpdateNode, new software versions can be identified and downloaded and installed by the UpdateNode client. These Terms and Conditions regulate the online usage of the provided program or parts thereof. Furthermore, UpdateNode provides the ability to display messages through the client that have previously been defined online.

(2) The seller is entitled to change the service offering (user interface, content and structure of UpdateNode) as long as the purpose of the settlement agreed with the user is not significantly affected. The user will be notified of relevant changes from the seller.

(3) The seller provides the user under the heading, "UpdateNode Help System" instructions for use which is available for online retrieval. The user is obliged to observe the instructions given therein regarding access to and the use of UpdateNode.

10. Technical Requirements

(1) The user must consider under the caption ,,Technical Prerequisites“ the technical requirements to allow for uninterrupted access to UpdateNode and to download content.

(2) The costs of setting up the online connection as well as the maintenance on the user side is the responsibility of the user. The seller is not liable for the security and existence of data communications which are routed via communication networks of third parties. The seller shall not be held liable for errors in data transmission, which result from technical errors or configuration issues on the user side. A failure of the hardware and software used by the user does not remove the obligation to pay the basic fee.

(3) For the use of individual services under this contract, the supplier provides the user the required software. In these cases, the user will once again be notified individually.

(4) The user is responsible to use the updates offered by the provider to ensure a full service oft he software, that serve to improve the protective function of the software.

(5) The use of UpdateNode is limited to ensuring system stability as follows:

- You should perform requests to UpdateNode not more than 15 times per client / per hour
- You are responsible to submit an unique client ID per device/user. Ensure that there are never different devices/users with the same client ID.
- You should perform requests to UpdateNode not more than 90 times per client / per hour, when using the test key. Furthermore, the test key should not be used in a productive system

11. User Rights

(1) UpdateNode as well as the individual contents are - unless otherwise stated - subject to copyright. Permission for use of UpdateNode Client "unclient", as well as the UpdateNode Android API is issued solely for use in connection with the service UpdateNode. Any use of the client in connection with another update server is prohibited. The scope of the rights of use differs depending on the license provided by UpdateNode and depending on the supply of components.

(2) For UpdateNode service and the Android API the seller grants to the user a simple, non-exclusive and non-transferable right to use the software provided. The user has to follow the installation instructions given by the seller. The user is entitled to use the software to carry out the contractual services. This right is only granted during the duration of this Agreement. Copies of this software may - unless otherwise noted - be used solely for the purpose of backing up the software. The user is not permitted to reproduce the software, make it available to third parties, modify or translate. Disassembling the Software is permitted only for the purpose of establishing interoperability of the software with an independently created program or to resolve software defects.

(3) For the UpdateNode Client "unclient", which forms the interface between UpdateNode and your software, apply further rights and restrictions that are provided to you for download by license agreement(these are available here).

12. Availability

The seller assures the user that UpdateNode will be available on an average of 99% per year.

13. Data Protection

(1) The quality requirements of the seller are to deal responsibly with the participants' personal data ("personally identifiable information"). The seller will treat your personal data confidentially and in accordance with the provisions of applicable data protection legislation and will not disclose it to third parties.

(2) Personal data arising from your registration to UpdateNode as well as through the utilization of available services, will only be collected, stored and processed as far as this is necessary for our contractual services or is permitted by law, or ordered by the legislature. In particular, we only provide the necessary data required for the implementation of payment to said credit card company as well as with the collection entrusted contractors.

(3) Beyond this use of your personal data, the seller will only disclose your personal data if you have expressly consented to such, such as to carry out technical support. A consent granted by you may be revoked at any time. For more information about the processing of your personal data refer to the Privacy Policy.

(4) The seller indicates that your usage activities can be monitored as permitted by law. This includes, if necessary, the logging of IP connection data and conversations and their overviews in the event of a concrete suspicion of breach of these Terms and Conditions of Use and/or any concrete suspicion of the existence of any illegal act or offense.

IV The Use of UpdateNode By You

14. Responsibility for the Login Information

(1) During the registration process you will be asked to provide your first and last name, e-mail adress and a password. After activating your account and performing a confirmation according to 5. (3), log on UpdateNode using your name and password. It is your responsibility to ensure that the user name does not infringe rights of third parties, in particular, does not violate any name or trademark and does not breach good morals.

(2) The credentials, including the password, must be kept secret by you and must not be made accessible to unauthorized third parties. It is your responsibility to make sure that your access to UpdateNode and the use of services available on UpdateNode is exclusively used by you or by people authorized by you. If you are concerned that unauthorized third parties have obtained or will obtain your access credentials, the seller must be informed immediately.

(3) You will be held liable for any use and/or other activity that is running under your access data according to statutory provisions.

15. Storage and the Updating of Subscriber Data

(1) You are required to keep your data (including your contact details) updated. When a change to your given information occurs during the duration of your membership, you must correct the relevant details immediately on UpdateNode in your personal preferences. If you are not able to do so, let us know your changed data immediately by e-mail or by mail.

(2) The seller is entitled to collect data on the following performance-related procedures: usage, transmission capacity, transmission duration, personal data identifying the user. The seller will collect and use this data in accordance with data protection legislation.

(3) The seller provides the users with a statistical analysis of their user data. The seller collects this for each user separately and these results together with other data is stored and access to this data is restricted without your consent. The user is responsible for ensuring that the overview of the user data corresponds to data protection principles.

V. Liability and Final Provisions

16. Limitation of Liability as well as Physical and Legal Defects in Unpaid Services

(1) Information about known bugs and other errors in the software are available at https://github.com/updatenode/unclient or https://updatenode.uservoice.com. The seller, its agents and legal representatives may be held liable for quality and title defects of the given gratuitous services for immediate direct damages occuring to the customer, if a failure of the software has been fraudulently concealed. Furthermore, the seller, ist agents and legal representatives may be held liable for consequential damages resulting from the quality and title defects, ist hey are based on intentional or grossly negligent acts of the seller, his agents or his legal representatives. A further warranty for quality defects is excluded in unpaid services. The seller has no known defects in the title for the software.

(2) In relation to the rights holders, the warranty provisions shall apply of the GNU General Public License, Version 3, which is specifically referenced.

(3) Should you incur a loss by the use of the gratuitous services provided on the portal (including the retrieval of free content), the service provider shall be held liable only if the damage suffered is due to the contractual use of free content and/or services, and only because of willful misconduct (including malice) and gross negligence of the service provider. Liability under the German product liability law („Produkthaftungsgesetz“) remains unaffected.

17. Liability for Chargeable Services

(1) In the event of slightly negligent breach of essential contractual duties, which violations endanger the performance of the contract, our liability and that of our agents shall be limited to the foreseeable, standard loss typical of this kind of contract.

(2) Neither we nor our agents are to be held liable for slightly negligent breaches of non-essential duties, that do not compromise the performance of the contract.

(3) The above mentioned limitations of liability do not affect customer claims arising from product liability (German „Produkthaftungsgesetz“) or warranty. The limitations of liability do not apply to bodily injury, damage to health or loss of life.

(4) We are only liable for our own content on the website UpdateNode.com. The customer shall indemnify us against all liabilities which may arise by third parties due to unfair treatment of the customer, whether intentionally or through negligence.

18. Final provisions

(1) This contract is governed by the law of the Federal Republic of Germany. For consumers, who do not complete the contract for professional or commercial purposes, this choice of law is only valid as long as the protection granted is not withdrawn by mandatory provisions of the law of the State in which the consumer has his habitual residence. The provisions of the UN Sales Convention (CISG) shall not apply.

(2) If the customer is a merchant („Kaufmann“), legal entity under public law or public special fund, the exclusive place of jurisdiction for all disputes arising from this contract is Munich. The same applies if the customer has no general jurisdiction in Germany or if the living area or habitual residence at the time of action are not known.

(3) If individual provisions of the contract with the customer, including these general terms and conditions in whole or in part, are or become invalid, this shall not affect the validity of the remaining provisions.

(4) In the case of conflict between German and other language versions of these Terms and Conditions, the German version shall take precedence.

Last changed: 31.07.2014