

SOFTWARE LICENSE CONDITIONS (Freeware)  
of the 1-2-sports AG, Nuremberg  
-HRB 23040 of the district court Nuremberg-  
(the "license-giver") concerning the software up-2-sports  
(as of September 7, 2007, first draft)

## PREAMBLE

These license conditions have the aim to release the computer program "up-2-sports" (henceforth also referred to as the "software") for everyone's use. This means that the license-taker is granted comprehensive user rights for the software, which exceed the granting of rights of conventional license agreements to a considerable extent.

The right to copy, distribute and to make publicly available the software in unchanged form (henceforth also called "software") is granted.

These user rights are granted free of charge.

These license conditions do not grant the right to change the software, nor do they grant the decompilation of the software to produce an interoperability with other programs, the change of the source code, the (partial) use of the source code in other computer programs or for the correction of errors of the software. In spite of the free granting of rights there is no renunciation by the license-giver, the 1-2-sports AG, of the copyrights and patent rights, but rather simple user rights are granted.

These license conditions provide commitments for the license-takers at the same time. These commitments serve the purpose of assuring the free circulation of the software. In particular, the license-takers are obliged, by utilizing the software, to take care of new users receiving a copy of these license conditions.

These license conditions are meant as an offer for everybody to complete a license contract. This offer refers to the software "up-2-sports". The acceptance of these license conditions by the license-taker is required for the copying, the distribution and for making the software publicly available. The acceptance is effected by undertaking corresponding user actions concerning the software. These license conditions are also acknowledged, for example, by opening a seal- in the case of a physical handing over of a memory medium- and by obtaining it via electronic media (downloading of the software "up-2-sports" from the website of the 1-2-sports AG) through the installation of the software respectively.

The directions for use for the software, which are deposited for example in the download section of the website of the 1-2-sports AG, are to be taken note of in any case and are to be respected (compulsorily) beside these license conditions.

## § 1 GRANTING OF USER RIGHTS

1.1. The license-giver grants, in case of acceptance of these license conditions, the non-exclusive right to copy, distribute or to make publicly available in unchanged form the computer program "up-2-sports" set under these license conditions and the necessary directions for use (henceforth "the program") to the license-taker. No license fees may be charged.

1.2. The license-taker is obliged to enclose a copy of these license conditions with each duplicated piece. If the license-taker makes the program publicly available, they have to give the user the chance to download these license conditions free of charge. The license-taker has to point out the validity of these license conditions by means of an explicit note on distributing as well as on making the program publicly available.

## § 2 CHANGES OF THE SOFTWARE AND/OR OF THE PROGRAM

2.1. The license-giver does not grant the right to the license-taker to process and/or change in a different way the software or the duplicated pieces of the program themselves or to copy, distribute or make publicly available programs processed or changed in this way.

2.2. It is explicitly prohibited to the license-taker to combine within a homogeneous overall program the software and/or the program or parts of the software and/or of the program with other programs or parts of other programs not subject to the validity of these license conditions and/or to use them together with other applications, services and functionalities outside the internet platform of the 1-2-sports AG (for instance, this software must not be used for other internet platforms or for other purposes than indicated in the directions for use).

## § 3 INDICATION OF AUTHORSHIP, NOTES

The indications of authorship given by the license-giver and the indications of date in this connection as well as all notes referring to the validity of these license conditions must not be changed by the license-taker.

## § 4 FURTHER USER RIGHTS AND RESTRICTIONS

4.1. The license-giver grants the right to the license-taker to instal and use (at the same time) the software on as many computers as they like which are suited to the purpose of the software according to the directions of use and/or of the program. The computer program "up-2-sports" has the aim to read data from memory media of any kind (for example the iPod). The software requires certain technical minimum requirements. Otherwise the software will only work in a faulty way or not at all.

4.2. The free distribution or transfer of the software to third parties by the license-taker is explicitly permitted and desired. The license-taker must not sell or lease for a fee the software and/or the directions for use belonging to it.

4.3. The license-taker is entitled to make as many copies of the program for personal use as they like or for free distribution. On distribution, these license conditions are always to be observed and are to be indicated.

4.4. The license-taker must not combine or decompile or change both the software and the program neither as part of another product nor with another collection of other products, nor must they compile subsidiary products which are derived from the computer program "up-2-sports", unless the license-giver has given their written consent for it before.

4.5. The license-taker or other persons are not permitted to use the program in applications and systems in which the faulty function of the software can or will lead to significant physical injuries, violations, damages to or destruction of property, or the loss of life, including, but not limited to, the use in dangerous surroundings in which a faultless performance is required (like in nuclear institutions, aircraft navigation or communication, life-saving machines or weapons systems)(henceforth called "harmful uses").

The software "up-2-sports" is not tolerant of errors and has not been devised, produced or intended for such harmful use.

Every harmful use like this is fully the license-taker's risk who accepts that the license-giver or whose bodies or their executive aides cannot be held responsible for such unauthorized use.

4.6. Each use of the software and/or of the program contrary to these license conditions

will immediately terminate the user rights of the infringer.

4.7. The user rights of third parties which derive from these license conditions will remain in force as long as the conditions of these license conditions are observed.

## § 5 MAKING OF CONTRACT

5.1. These license conditions are to be understood as an offer to everybody to make an arrangement of use for these contents.

5.2. By using the software and/or the program, by distributing or making publicly available the software and/or the program as well as by copying the software and/or the program in a manner that exceeds the use according to the regulations, the license-taker will declare the acceptance of these license conditions so that the license conditions will be considered as a legally binding contract between the parties from that moment on. A receipt of the declaration of acceptance is not strictly necessary. For reasons of legal security and clarity, the license-giver can get the consent to these license conditions, for example in the form of an entry mask (through ticks in a square of consent provided for that means) and may save them permanently.

5.3. Each single license-taker receives the powers from these license conditions directly from the license-giver.

## § 6 OPPOSING RIGHTS OF THIRD PARTIES, PROHIBITIONS BY THE STATE

As long as it is not possible for the license-taker to comply with all conditions of these license conditions because of opposing patents of third parties or because of bans by the state, they may not continue to copy, distribute or make publicly available the software and/or the program.

## § 7 LIABILITY AND GUARANTEE, EXEMPTION FROM RIGHTS OF THIRD PARTIES

7.1. The license-giver is not liable for contraventions of these license conditions, particularly for contraventions of the restrictions listed in § 4 clause 4.5.

7.2. The license-giver does not take any responsibility and is not liable for the software and/or the program functions to satisfy the license-taker's specific requirements or for them to co-operate with components in the special hardware configuration at the license-taker's or for faults and/or faulty functions that might occur on operating the software "up-2-sports" with a different software and/or applications by the license-taker. The legal liability according to the law of product liability remains untouched.

7.3. The liability and guarantee of the license-giver are limited to intent and gross negligence.

7.4. The license-giver will solely vouch for intent and gross negligence with regard to existing trade rights of third parties of the software and/or the program.

## § 8 FINAL CONDITIONS

8.1. The preamble is part of these license conditions and is to be consulted for the purpose of interpretation.

8.2. The license-giver reserves the right to change or to complement these license conditions in the future. The license-taker commits themselves to check these license conditions for changes or complements at regular intervals.

8.3. With every use of the software and/or of the program, the user declares their consent with the version of these license conditions in force at the time.

8.4. For these license conditions German laws apply with exclusion of the International Private Laws and the UN-right of purchase adopted by the German law provided that there are not any compelling regulations concerning consumer protection rights that stand in the way of such an application.

8.5. For disputes arising from or in connection with the use of the software and/or the program or from these license conditions, the court seat is, as far as legally permitted, the seat of 1-2-sports, thus Nuremberg, Germany.

For license-takers who are tradespeople within the meaning of the legal code of trade or who are from a publically-legal special estate or who are a legal person of public law, the seat of the 1-2-sports AG will be the exclusive court seat for all disputes arising from the contract.

For license-takers who are consumers according to § 13 of the German Civil Code (BGB) there is a court seat at the license-taker's respective place of residence. For all disputes arising from this contract, the additional court seat for consumers will be the seat of 1-2-sports, thus Nuremberg, Germany.

Provided the license-taker does not have a permanent place of residence in Germany, or has relocated their place of residence or place of temporary residence abroad after these license conditions have come into effect or if their place of residence or place of temporary residence is not known at the time of the action being brought, the court seat will be Nuremberg, Germany.

8.6. In case one or several conditions of these license conditions should be or become null and void, so the validity of the license conditions for the rest will not be affected by it. The parties commit themselves to replace a regulation that is null and void with an effective regulation which comes as close as possible in its content of regulation to the economically desired point of the regulation that is null and void. The same thing applies accordingly with loopholes in the regulations or in the contract.