

Partner agreement

between

Univention GmbH

Mary-Somerville-Str. 1

28359 Bremen

– hereinafter Univention –

and

the organization, that is joining the Univention partner program

– hereinafter Partner –

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1 Basis of this agreement

The contracting parties agree that both Univention and the Partner can/should benefit from the “Univention partner programme”. With the Univention partner programme, Univention offers the Partners sales, marketing and technical support for Univention products.

2 Qualification

2.1 Partner levels

There are three different partner levels in the Univention partner programme:

1. Univention Reseller
2. Univention Partner
3. Univention Premium Partner

2.2 Services and requirements

Each partner level is associated with specific services and requirements, which are offered separately by Univention.

The Partner thus declares that he agrees:

- that he must satisfy the respective requirements to be able to qualify for a partner level;
- to satisfy the requirements permanently;
- to inform Univention immediately of any changes which mean that he is no longer able to satisfy the requirements for a partner level.

Should Univention not be informed in due time Univention may assign the Partner to the partner level for which he satisfies the requirements.

2.3 Adjustment of services and requirements

Univention shall adjust the requirements and services associated with a partner level in accordance with the market development. The Partner will be notified of the changes to the requirements and services at the latest three months before they come into effect. Insofar as Univention has implemented such changes, the Partner is granted an extraordinary right to terminate this agreement, which he may exercise within one month of notification of the changes by Univention. By not exercising this right to terminate the agreement, the Partner declares his agreement with the changes.

3 Sales principles

3.1 Basic information

The Partner declares that he agrees:

- to accept the responsibility for customer satisfaction as regards his activities. He will thus always reply to technical questions regarding Univention products from his customers and potential customers in due time and to the best of his abilities, and inform Univention of unsolved technical problems. In addition, he will also ensure that the support for Univention products is only performed by sufficiently qualified employees;
- that all information provided by Univention and access to information systems from Univention are only used in the scope of the activities of this agreement. A transfer is hereby excluded;
- to inform Univention immediately of all changes to the information provided in the application to participate in the Univention partner programme which are relevant to the agreement or which can be expected;
- to inform Univention of the results of his activities which come about as the result of a sales lead (forwarding of leads) from Univention;
- To provide Univention with the following information:
 - information about end customers for which the partner company employs Univention products (name of company, address, quantity and type of employed Univention products, number of users, numbers of servers and client systems).

3.2 Confidential information

Confidential information refers to:

- information concerning customers and interested parties;
- information concerning products, product components and services not yet released as well as the corresponding technical background information;
- information provided to Univention by the Partner such as customer information for the generation of a licence key, report values, financial data, etc.;
- all information that is identified as “confidential”. This applies in particular to information published in the web partner area;
- other written agreements between the contracting parties which are identified as confidential.

(1) The recipient of the information undertakes to treat it with the same care and discretion employed for its own confidential information and to protect the information against being forwarded, published and circulated.

(2) Information relating to the information provider must only be used for the purpose for which it was provided or for the benefit of the information provider.

(3) Provision of the information to third parties is only possible with express, written permission.

3.3 Competition between the Partner and Univention

In order to avoid competitive situations between the Partner and Univention, the Partner has the possibility of informing Univention of the customer projects it is currently planning. Univention guarantees the Partner that it will not compete to win the customer in question insofar as the Partner concentrates its efforts seriously and appropriately on the project in question, however at least for a period of three months.

In the case that the Partner informs Univention in this manner of a customer project that is in the planning/acquisition stage, whereby Univention is also attempting to win the project at the same time (prior to being informed of it by the Partner), a solution should be found which is in the best interest of both partners.

3.4 Marketing

- The Partner is authorised, in accordance with the partner level (point 2), to use the Univention Partner logo and to act and present itself to customers as a Univention Partner.
- The Partner is authorised to use information/documents provided by Univention that do not fall under point 3.2. for marketing and sales purposes and make them available to customers and interested parties.
- Univention informs end customers that the Univention Partners are a reference source for its products – in person and on the website www.univention.de in accordance with the partner level (point 2).

4 Partner conditions

4.1

Univention guarantees the Partner, in accordance with the attained partner level, special discounts on:

- subscriptions;
- support;
- training sessions;
- IT services and consulting.

4.2

Univention will inform the Partner of beta programmes and grant them the possibility to participate, insofar as available. In the case that there are too many parties interested in participating in the beta programme, Univention may perform a selection based on previously published criteria or random selection.

5 Terms and conditions of supply

Univention supplies the goods to the Partner or to the customers on behalf of the Partner (Partner's customer). Software licence keys are sent free of charge via e-mail. Maintenance and support contracts are sent free of charge per e-mail, per fax or by post. The software and documentations are available via download on the Univention Website.

6 Software licences, terms and conditions of maintenance, terms and conditions of support, general terms and conditions

The Partner expressly accepts the software licences for Univention software products, the terms and conditions of maintenance for Univention software products and the terms and conditions of support for Univention software products. In addition, he accepts the Univention 's general terms and conditions. These licences, contracts and terms and conditions form part of this agreement and the basis for all activities performed in the scope of this agreement. For this reason, the Partners expressly waive the acceptances of the appropriate terms and conditions usually required for each order of Univention software, maintenance and support services.

Should Univention make any changes to these terms and conditions, Univention undertakes to inform the Partner in due time prior to such changes coming into force. The Partner is then entitled to terminate this agreement within a period of two weeks.

In addition, the Partner undertakes to pass the same terms and conditions for the licence, maintenance and support on to his end customers, insofar as he resells Univention software or Univention subscriptions to a customer. He shall ensure that the end customer complies with the terms and conditions of the licence and inform Univention of violations of the terms and conditions of the licences insofar as he becomes aware of such. He shall archive the subscription contracts carefully and provide Univention with a copy on request. When this agreement expires, the Partner will provide Univention with copies of all the subscription contracts concluded with his customers for Univention products on request.

The Partner shall not provide any warranties or similar on behalf of Univention.

7 Liability

- (1) The Partner shall release Univention from all claims from third parties arising from the Partner's activities within the scope of this agreement.
- (2) In cases of failure to uphold the terms and conditions of this contract, including breach of contract, tort, negligence or misrepresentation, the following shall apply: (2.1) The liability of both contracting parties for direct losses and damages in cases of slightly negligible breaches of fundamental contractual obligations is limited to € 25,000, and (2.2) neither of the contracting partners is liable for financial consequential damages (including loss of profit or income, lost goodwill or failure to make savings), special, indirect damages or other financial collateral damages, even when he has been informed of their possibility.
- (3) These limitations of liability do not apply (3.1) to the Partner's obligation in accordance with (1) to release Univention from all claims from third parties arising from the Partner's activities within the scope of this, (3.2) as well as for claims based on violations of industrial property rights, including the Partner's use of Univention trademarks in contradiction of Univention's principles, (3.3) liability in accordance with the German Product Liability Act (Produkthaftungsgesetz), as well as liability for personal damages, intent or gross negligence, warranties and violations of fundamental contractual obligations, which cannot be excluded or limited according to applicable law.

8 Term of the contract

8.1 Probationary period

The partner agreement is initially concluded on a probationary basis; the probationary period shall run for 2 months. Within this probationary period both contracting partners may terminate the contract without the need for justification.

8.2 Termination of the contract

Both contracting partners may terminate the contract in writing by providing written notification without the need for justification while complying with a period of notice of one month.

Along with the expiry of the contractual relationship, the right also expires to use the logos and all other documentation provided by Univention. The Partner must destroy or return all data and information exchanged with Univention.

9 Final provisions

9.1

Neither of the contracting partners is entitled to transfer this contract to third parties in whole or in part in any way without the prior, written authorisation of the other contracting partner. Such an authorisation may only be denied for an important reason. The transfer of this contract within the company to which one of the contracting partners belongs, or to a successor company in the case of a merger or takeover, does not require the authorisation of the other contracting partner. The contracting partner who performs the transfer will notify the other of this event within one month of the transfer.

9.2

Both parties are independent contracting partners. Neither of the two contracting parties is an authorised representative or agent of the other. Neither of the two contracting parties is legally responsible for the other. This contract does not create an employer-employee relationship, franchise relationship or joint venture.

9.3

Each contracting partner bears the costs he incurs when satisfying his contractual responsibilities and obligations.

9.4

The terms and conditions of this contract do not result in any rights or obligations for Univention in connection with the Partner's products or services.

Terms and conditions which extend after the termination of the contract by nature shall remain in force until such time as they are completed and thus also apply for any parties the contract is transferred to or who take over the contract.

9.5

Both contracting partners are entitled to save contact information about employees of the other contracting partner, such as names, telephone numbers and e-mail addresses, in each country in which the Partner, a Univention company or one of the service companies authorised by one of the contracting parties operates. This information may also be used for completing the respective obligations in accordance with this contract.

9.6

Both contracting partners observe the laws and directives, including the export regulations.

9.7

Provisions of this contract which are found to be invalid or unenforceable shall automatically become null and void. The remaining provisions of this contract shall remain final and absolute.

9.8

Jurisdiction for all parties is Bremen, Germany.

9.9

This contract is concluded between the Partner and Univention GmbH with its headquarters in Bremen. German Federal law shall apply to the legal relationship in the context of this agreement. The UN Convention on Contracts for the International Sale of Goods is hereby excluded.