

# General Licensing Agreement of PDF Tools AG for the Use of Software

Version 2.4 - valid from January 1, 2018

---

## 1 Foreword/Preamble

These General Licensing Terms apply to the use of software from PDF Tools AG by natural or legal persons (hereinafter referred to as "Licensees").

Upon ordering and downloading, the Licensee acknowledges the validity of these General Licensing Terms.

Should the Licensee not agree to the General Licensing Terms, it will not be entitled to use any software from PDF Tools AG.

Arrangements deviating from the General Licensing Terms require previous written approval from PDF Tools AG.

## 2 Definitions

### 2.1 Components

<sup>1</sup> A software component is a unit with guaranteed interfaces and can be used independently or integrated into software programs. Components are generally used during software development.

### 2.2 Solutions

<sup>1</sup> A solution is a software program that integrates several components into one stand-alone piece of software. Solutions are generally used by end users, integrators, and IT operators.

### 2.3 Installation, Operating System

<sup>1</sup> An operating system platform is a necessary prerequisite for the operation of installed software. Examples of operating systems are Windows Server, Linux, OSX, AIX, and HP-UX.

<sup>2</sup> An installation of an operating system platform, operated on one or several real or virtual computers.

<sup>3</sup> Use of the licensed software on an operating system platform installation is counted as one (1) installation.

### **3 Agreement Parts**

<sup>1</sup> The invoice document of PDF Tools AG and written agreements with PDF Tools AG are integrated parts of the present licensing agreement.

<sup>2</sup> These agreement parts include, among other things, the licensed software, the licensed version of the software, the name and address of the Licensee, and the amount for the license fee.

### **4 Licensee's Usage Rights**

<sup>1</sup> The scope of the Licensee's usage rights shall conform with the agreed license type and the present General Licensing Terms and any further written agreements with PDF Tools AG.

<sup>2</sup> Should the license type agreed with the Licensee not expressly permit the use of the licensed software for third-parties and/or sub-licensing, the Licensee's usage right covers a non-exclusive, non-transferable right to use the licensed software for the Licensee's own purposes. Any transfer of the licenses to third-parties, including subsidiaries or companies otherwise linked with the Licensee, is expressly forbidden.

<sup>3</sup> The maximum number of copies of the software which the Licensee may use is limited by the number of licenses purchased as per the invoice document and/or written agreement with PDF Tools AG.

<sup>4</sup> The licensed software is limited to one specific operating system platform. This limitation is detailed with the precise description of the licensed software in the invoice document and/or written agreement with PDF Tools AG.

<sup>5</sup> The use of the licensed software and, depending on the license type, the integration of the licensed software into the Licensee's applications for its own purposes is authorized within the scope of the agreed license.

<sup>6</sup> The Licensee is responsible for ensuring that the licensed software is only used as contractually agreed and only by authorized persons.

## 5 License Types

<sup>1</sup> The license type determines the type of permissible use of the licensed software. PDF Tools AG offers the license types named in the current clause. The license type agreed with the Licensee, and the scope of the Licensee's usage right, are detailed on the invoice and/or in the contractual agreement.

<sup>2</sup> The license acquired for the licensed software is activated via a license key permitting the use of the software in accordance with this license.

### 5.1 Runtime License

<sup>1</sup> A runtime license is required for the productive use of the licensed software on a Licensee's operating system platform. This excludes productive use in a web service (see SaaS License) or in a web application (see Web Application License).

<sup>2</sup> A runtime license is required for each installation on an operating system platform (physical or virtual).

<sup>3</sup> Depending on the product type, the runtime license is limited as follows, unless agreed otherwise in writing:

A license for desktop products limits the number of users per installation.

A license for components limits the number of installations.

A license for solutions limits the number of pages per year (throughput) and/or the number of parallel processing operations.

### 5.2 Developer's License

<sup>1</sup> The developer's license is a license for the use of the software by an application developer for the development of the Licensee's software. The licensed software is integrated into the Licensee's application software using a programming interface.

<sup>2</sup> One developer's license is required for each developer's workplace.

<sup>3</sup> A developer's license is only valid in combination with a runtime license and may not be used as the latter.

### 5.3 Test License

<sup>1</sup> A test license is required for non-productive use, such as for quality assurance, performance measurement, and concept tests.

<sup>2</sup> A test license presupposes a separate test infrastructure.

<sup>3</sup> A test license is only valid in combination with a runtime license and may not be used as the latter.

## 5.4 Evaluation License

<sup>1</sup> An evaluation license solely serves to establish the suitability of the software to be licensed.

<sup>2</sup> An evaluation license may not be used for development, productive use, or any purpose other than evaluation.

<sup>3</sup> The evaluation license is valid for 30 days. The operability of the licensed software is limited to this period by means of the license key.

<sup>4</sup> If the licensed software is operated with an evaluation license key, the licensed software adds a mark (watermark) to all output files.

## 5.5 Project License

<sup>1</sup> A project license is a runtime license limited to the period of use detailed in the invoice document.

<sup>2</sup> Following the expiry of the agreed period of use, as well as for other projects, a further project license or runtime license must be acquired.

## 5.6 OEM License

<sup>1</sup> An OEM license authorizes the Licensee to integrate the licensed software into one of the Licensee's software products which is used by the Licensee's customers.

<sup>2</sup> An OEM license consists of a developer's license and runtime licenses.

<sup>3</sup> The precise usage rights of the OEM license, as well as further rights and obligations of the parties in connection with the OEM license, are established in a separate OEM agreement.

## 5.7 Web Application License

<sup>1</sup> A web application license is required if the licensed software is operated on a web server as an element of a web application (application software) belonging to the Licensee and is used by the users in a web browser.

<sup>2</sup> A web application license authorizes use of the licensed software in the manner detailed in the invoice documentation.

## 5.8 SaaS License

<sup>1</sup> A SaaS license (Software as a Service) is required if the licensed software is operated as an element of a web service of the Licensee that is used by the Licensee's customers.

<sup>2</sup> The precise usage rights of the SaaS license, as well as further rights and obligations of the parties in connection with the SaaS license, are established in a separate service provider agreement.

## 6 Product types

The products provided by PDF Tools AG can be divided into three categories: components, solutions and desktop products

### 6.1 Components

Components are software programs that are designed as elements of software solutions and are integrated into these solutions. We differentiate between two types of components: APIs and shell tools.

#### 6.1.1 API

An API (Application Programming Interface) is a software component used by programmers. It provides specific processing functions for PDF files and is used via a programming interface. Programming interfaces are available for various programming languages such as C/C++, Java, PHP and C#.NET.

#### 6.1.2 Shell tool

A shell tool is a software component used with an operating system's command line. It provides specific processing functions for PDF files and is used by experts to automate PDF processing operations using shell scripts.

### 6.2 Solutions

Solutions are software programs that can be operated independently on the customer's servers. They offer PDF processing services in the form of web services, watched file and mail folders, and more.

### 6.3 Desktop products

Desktop products are standalone software programs that are installed on a client operating system and are designed to be used directly by the end user.

## 7 Audit

<sup>1</sup> The Licensee is obliged to carry out a self-audit at the end of an agreement year. The Licensee shall report components to PDF Tools AG per number of installations. For solutions, the number of installations is reported, as well as the effectively processed number of pages, which can be taken from the page counter.

<sup>2</sup> PDF Tools AG has the right, within the scope of a formal audit, to carry out a check of the use of the licensed software. The Licensee must be informed in writing of a formal audit by PDF Tools AG at least 5 working days in advance. This audit may be conducted by PDF Tools AG itself or by a commissioned representative of PDF Tools AG. Should a formal audit reveal that the Licensee's licensing has not been carried out correctly, the Licensee will then have 10 days to order a correct license and make all outstanding payments.

## 8 Intellectual Property Rights

<sup>1</sup> The Licensee acknowledges and confirms that the licensed software and its documentation and license keys contain valuable business secrets and information, and that these, as well as the copyright and commercial protective rights over them, are the property of PDF Tools AG.

<sup>2</sup> All business secrets and information, as well as all not generally known information that relates to the business activities of PDF Tools AG and which the Licensee has gained access to while executing this agreement (e.g. software libraries), as well as the specific content of the agreement, must be treated by the Licensee as strictly confidential, not published, and not shared with third parties either partially or in full.

<sup>3</sup> The Licensee must also subject its employees and subcontractors to this same obligation. The Licensee is obliged to protect confidentiality to at least the same extent that it protects its own confidential material.

<sup>4</sup> The Licensee is prohibited from reverse engineering or retranslating the licensed software, or from attempting to do so. The Licensee may neither permit nor support this, nor allow others to do so.

## 9 Trademark Protection

<sup>1</sup> 3-Heights™ is a registered trademark of PDF Tools AG.

<sup>2</sup> The Licensee may not use the "3-Heights™" registered trademark without approval from PDF Tools AG.

## 10 Warranty and Liability

### 10.1 Warranty

<sup>1</sup> PDF Tools AG confirms that the software corresponds to the most recently valid and trialed version at the time of licensing.

Should serious errors appear on a suitable operating system platform within thirty (30) days of the date of invoicing for the unaltered software, the Licensee shall have the right to demand a maintenance release. A serious error exists if the software cannot be used productively.

<sup>2</sup> Any further warranty is waived within the statutory limits.

## 10.2 Right of Return

<sup>1</sup> Should the program contain unacceptable defects, namely, if it is not in a position to fulfill essential applications, functions, and services as guaranteed or required by the intended use, the Licensee may return the program and the documentation against reimbursement of the license fee. When returning the product, the Licensee must confirm in writing that all copies of the program have been deleted and are no longer in use. PDF Tools AG has the right to check these circumstances on site.

<sup>2</sup> The right of return expires thirty (30) days after payment of the license fee has been received.

## 10.3 Legal Warranty/Indemnification for Software Modifications

<sup>1</sup> PDF Tools AG shall fend off any claims from third parties relating to the breach of property rights at its own cost and risk. Should a third party initiate legal proceedings against PDF Tools AG, the latter shall inform the Licensee of this.

<sup>2</sup> Should the third party address the demands directly to the Licensee, the latter is obliged to immediately inform PDF Tools AG of this. In this case, PDF Tools AG shall assume control of the proceedings as per the relevant provisions of the applicable procedural law.

<sup>3</sup> Should the Licensee render the use of the software wholly or partially impossible due to property claims made, PDF Tools AG has the choice of either replacing the standard software with other software or changing its performance in such a way that it no longer violates any third-party rights but still corresponds to the contractually agreed scope of performance, or, at its own cost, procuring a license from the third party. Should PDF Tools AG not implement any of these options within a suitable period, the Licensee may then immediately terminate the agreement. Further claims of the Licensee are excluded.

<sup>4</sup> Should the Licensee itself have to deal with the property right infringement, the claims against PDF Tools AG are excluded. PDF Tools AG in particular bears no responsibility for the enforcement of all claims for patent and property rights which arise from a version of the licensed software that has been modified and mixed with other software components.

<sup>5</sup> The Licensee indemnifies PDF Tools AG for damages and liability claims arising from the modification or mixing of the licensed software with other software components.

## 10.4 Limitation of Liability

<sup>1</sup> PDF Tools AG accepts liability for direct damage that is shown to have been caused by it intentionally or negligently during the provision of services under the present agreement. It accepts liability up to the sum of the damage incurred, but for no more than the license fee amount paid by the customer within a year for the software causing the damage.

<sup>2</sup> The liability of PDF Tools AG for slight negligence and for indirect damage, consequential damage, or data loss is, in so far as legally permissible, excluded. In particular, PDF Tools AG does not accept liability for the results created with the software/program, for loss of profit, or for other financial losses on the part of the Licensee. PDF Tools AG accepts liability for personal damage in accordance with the law.

## **11 Maintenance**

### **11.1 Maintenance Services, Start and Duration**

<sup>1</sup> The Licensee may optionally agree on the provision of maintenance services with PDF Tools AG against payment of a maintenance fee. In this case, the Licensee is authorized during the maintenance period of one year to update the licensed software with new versions, use it within the scope of the licensing terms, and receive technical support.

<sup>2</sup> The maintenance service is made available upon delivery of the licensed software and runs for one (1) year. Following the expiry of this year, the maintenance service is automatically renewed by a further year unless the Licensee terminates it in writing with a notice period of thirty (30) days from the end of the maintenance year.

### **11.2 Amount of the Maintenance Fee**

<sup>1</sup> Unless agreed otherwise, the maintenance fee for the period of one year amounts to 20% of the agreed licensing fee.

<sup>2</sup> In the case of maintenance fees of less than 100 euro, a minimum amount of 100 euro will be calculated for the renewals.

<sup>3</sup> PDF Tools AG reserves the right to adjust the maintenance fee in the following years on the basis of actual use.

### **11.3 Technical Support**

<sup>1</sup> Technical support refers to responding to queries by electronic mail between 08:00 and 16:00 GMT, Monday to Friday, and is limited to the logging of reported errors, the establishment of whether the errors were caused by the licensed software, and support in finding workarounds, as well as, within the scope of updates, the delivery of corrected versions of the licensed software should this have caused the error.

<sup>2</sup> Technical support is guaranteed if the error is evident on a PDF Tools AG computer and if the licensed software was not changed. Training is not included as part of the maintenance services.

### **11.4 New Versions of the Licensed Software**

<sup>1</sup> If the Licensee has concluded a maintenance agreement as per the present Clause 10, it is entitled to obtain new versions of the licensed software as soon as these are made available by PDF Tools AG.

<sup>2</sup> The Licensee shall receive one (1) copy of the new version of the licensed software. Whenever PDF Tools AG delivers a new version of the software, it shall support the older versions for a maximum of a further six (6) months. Following the expiry of this time, PDF Tools AG shall only support the new version.



## **11.5 Extraordinary Termination and/or Interruption of the Maintenance Service**

<sup>1</sup> PDF Tools AG may interrupt or discontinue the delivery of maintenance services at any time should the Licensee not fulfill its obligations such as payment of the license or maintenance fees or other contractual obligations.

## **12 Data Protection**

<sup>1</sup> The Licensee is informed of, and, upon ordering, grants approval for the fact that personal data is collected, such as surname, name, invoicing, installation and delivery address, telephone number, email address, bank details, and characteristics for user identification, information about the start, end, and scope of the respective use of PDF Tools AG within the context of the order and for the purpose of executing the agreement and improving the services; where necessary, this information may also be used internationally if this is necessary for the purpose of executing the agreement.

## **13 Amendment and Duration**

<sup>1</sup> The General Licensing Terms may be adjusted at any time by PDF Tools AG. The General Licensing Terms valid at the time of concluding the agreement apply.

## **14 Severability Clause**

<sup>1</sup> Should a provision of the present agreement be deemed invalid by a competent court, this shall not have any effect on the validity of the rest of the agreement.

<sup>2</sup> Instead of the invalid term, a provision that comes as close as possible to the sense of the original solution should apply.

## **15 Applicable Law and Place of Jurisdiction**

<sup>1</sup> This agreement is subject to Swiss law.

<sup>2</sup> The place of jurisdiction for complaints against the License Supplier is exclusively the headquarters of PDF Tools AG.