

Software – License Agreement for the SetaPDF Product Range



§ 1 Object of License

(1) The licensee is permitted on payment of a fee to use the software provided by the licensor for his own business or personal use for the purposes of building or using software solutions. The licensee is hereby permitted to use the above products under the terms of the agreed license model.

Details of the license model are contained in Annex 1 of this agreement, which forms an integral part of the license. The level of the fee to be paid by the licensee is contained in an invoice to be prepared separately for the licensee.

(2) The software will be made available to the licensee following prior registration online or by email.

§ 2 Copying Rights and Access Protection

(1) The licensee may copy the software provided that such copying is necessary for the use of the software. Uses for which copying is necessary include in particular installation of the software into the permanent memory of the hardware used and loading the program into the temporary memory.

(2) In addition the licensee may make a backup copy. However only a single backup copy may be made and retained. This backup copy is to be labelled as a copy of the licensed software.

(3) If, for reasons of data security or in order to ensure a rapid restoration of the computer system after a total outage, rotation backup of all data including the computer programs used is essential, the licensee may make the number of backup copies that are absolutely necessary. The data storage media used are to be labelled accordingly. The backup copies may only be used for genuine archival purposes.

(4) The licensee is under an obligation to take appropriate measures to prevent unauthorised third party access to the software. Any data storage media on which the software is provided and the backup copies are to be kept in a location which is protected against unauthorised third party access. Employees of the licensee are to be expressly instructed to comply with these provisions and the provisions of copyright law.

(5) The licensee is prohibited from making further copies, which includes sending the program code to a printer. Distribution of the documentation is only permitted with the express written agreement of the licensor.

§ 3 Use in a Multi-User or Networked Environment

(1) The licensee may use the software on any hardware which he has available under the terms of the agreed license model (§ 1 in conjunction with Annex 1 of the agreement).

Software – License Agreement for the SetaPDF Product Range



If, however, the licensee changes the hardware, he must delete the software from the previous hardware.

(2) Concurrent reading, storage or use on more than one hardware device is only permitted to the extent that this is consistent with the license models set out in Annex 1 to this agreement and taken up by the licensee. If the licensee wishes to use the software on several hardware devices concurrently, or wishes it to be used by several employees concurrently, he must acquire the requisite number of licenses.

§ 4 Decompiling and Program Modifications

(1) Conversion of the licensed program code into other code forms (decompiling) and all other types of derivation of the source code of the software (reverse engineering) including program modification even for the licensee's own use are prohibited, except to the extent permitted by law.

(2) Removal of anti-copy protection or any similar protection mechanism is only permitted to the extent that this protection mechanism is impeding or preventing problem-free use of the program. The burden of proof that the protective mechanism is impeding or preventing problem-free use of the program rests with the licensee. Please refer to § 11 Paragraph 3 of this agreement.

(3) The actions referred to in Paragraphs 1 and 2 may only be assigned to third parties who have commercial operations which may be in competition with the licensor, if the licensor is not willing to make the required program modifications in return for an appropriate fee. The licensor is to be given sufficient time to check the assignment of the work and is to be supplied with the name of the third party.

(4) Proprietary notices, serial numbers or other program identification features may not be removed or altered under any circumstances. The same applies to suppression of the corresponding features on the screen menu.

§ 5 Assignment and Leasing

(1) The licensee may assign or gift the software and other accompanying material permanently to a third party, provided that such third party agrees to accept the terms of this license agreement. In the event of assignment, the licensee must hand over to the new licensee all program copies including any backup copies or must destroy any copies not handed over. Following such assignment, the former licensee is no longer entitled to use the program. He is under an obligation to comply with the information obligation in § 11 Paragraph 1 of this agreement.

(2) The licensee may transfer the software and other accompanying material to a third party for a period of time, provided that this does not constitute rental for acquisition purposes or leasing and that such third party agrees to accept the terms of this license

Software – License Agreement for the SetaPDF Product Range



agreement and that transferor licensee hands over all program copies including any backup copies or destroys any copies not handed over. For the period of time for which the software is transferred to a third party, the transferor licensee is not entitled to use his program. Rental for acquisition purposes and leasing are prohibited.

(3) The licensee may not transfer the software to a third party if there is reason to suspect that the third party will breach the agreement, in particular by making unauthorised copies or using the software without a valid license. This also applies with respect to employees of the licensee.

§ 6 Warranty Claims

(1a) If the licensee is a supplier, the following applies: defects in the software supplied (physical and legal defects) shall be rectified by the licensor within a warranty period of one year from the date of supply upon notification of such defect by the licensee. The licensor may opt to do this either by correcting the defect (repair) or by supplying defect-free software (replacement). If the software is returned to the licensor for repair or replacement, any associated transportation costs are to be borne by the licensee.

(1b) If the licensee is a user, the warranty period is two years, again from the date of supply. In the event that the product has to be returned, the licensor shall bear the necessary costs.

(2) If the defect cannot be rectified within a reasonable period of time or if the repair or replacement is deemed for other reasons not to have occurred, the licensee may opt to have the purchase price reduced (lowered), or to withdraw from the agreement, or to require damages or compensation for wasted expenditure. The latter two options are governed by § 7 of this agreement. Withdrawal from the agreement does not exclude the entitlement to damages.

(3) Repair or replacement may only be deemed not to have occurred if the licensor has been given sufficient opportunity to make the repair or replacement but has not succeeded in doing so, or if repair or replacement is not possible, or if it is refused or unreasonably delayed by the licensor, or if there are reasonable doubts as to the prospects of success, or if there is any unreasonable behaviour for other reasons.

§ 7 Liability

(1) Claims by the licensee for damages or for compensation for wasted expenditure are governed by this clause irrespective of the legal nature of the claim.

(2) The licensor shall have unlimited liability for damage resulting in death, personal injury or harm to health which is attributable to a negligent breach of duty on the part of the licensor or to an intentional or negligent breach of duty on the part of a legal representative or agent of the licensor.

Software – License Agreement for the SetaPDF Product Range



- (3) In the case of other liability claims, the licensor shall have unlimited liability only in the case of absence of the guaranteed properties or for wilful misconduct and gross negligence, including on the part of his legal representatives and senior personnel. The licensor is only liable for the fault of other agents to the extent of his liability for minor negligence in accordance with Paragraph 4 of this liability clause.
- (4) In the case of minor negligence, the licensor is only liable to the extent that a duty has been breached which is of particular importance for the fulfilment of the purposes of the contract (material obligation). In the case of the breach of a material obligation, the liability is limited to an amount equal to five times the fee paid for the license and to such damages as might typically be expected in the context of a software license.
- (5) Liability for the loss of data is limited to the typical costs of restoration which would arise if regular backup copies commensurate with the level of risk had been made.
- (6) The above provisions also apply for the benefit of employees of the licensor.
- (7) Liability under the Produkthaftungsgesetz (Product Liability Act) remains unaffected (§ 14 of Product Liability Act).

§ 8 Obligation to Check for and Give Notice of Defects

- (1) The licensee shall check the supplied software within 8 working days of delivery, particularly in order to verify that the basic program functions are complete and in working order. Defects which are identified or identifiable must be reported by registered letter to the licensor within a further 8 working days. A notice of defects must contain as detailed as possible a description of the defects. The requirements of any defect form provided by the licensor must be complied with.
- (2) Defects which are not identifiable from a properly conducted check as described above are to be notified within 8 working days of discovery in accordance with the notice requirements laid down in Paragraph 1.
- (3) If the obligation to check for and give notice of defects is breached, the software is deemed to have been accepted in respect of the defect in question.
- (4) If the software was tested in advance by the licensee for more than 8 working days, acceptance takes effect in accordance with § 8 Para. 3 immediately on acquisition of the license, or at the latest when the software is actually used.

§ 9 Duty of Care

The licensee shall keep any data storage media supplied and any backup copies in a location secured against unauthorised third party access and shall expressly instruct his employees to comply with the provisions of this agreement and those of copyright law.

Software – License Agreement for the SetaPDF Product Range



§ 10 Software Updates

Each license includes any updates made available online or by e-mail by the licensor for a period of one year. Once this period has expired, the update facility can be extended on separate terms to be agreed.

§ 11 Information Obligations

- (1) In the case of assignment of the software, the licensee is under an obligation without being asked to notify the licensor in writing of the name and full address of the purchaser.
- (2) If the licensed software is software specially adapted for the licensee's hardware with a purchase price of over 5.000 €, the licensee is also under an obligation to give the licensor notice in writing of a change of hardware. The same applies if the licensee wishes to use the software in question in a network.
- (3) The licensee is under an obligation, irrespective of the value of the licensed software, to notify the licensor in writing of the removal of anti-copy protection or similar protection mechanism from the program code. The licensee shall define as precisely as possible any problem with the use of the program which necessitates a permitted modification of the program of this type. This obligation to define the problem includes a detailed description of the symptoms of the problem, the suspected cause of the problem and in particular a comprehensive description of the program modification made. If the licensor rectifies the defect as a result of such notification, the licensee is under an obligation to delete the software modified by him and any copies which exist and to confirm this in writing to the licensor.

§ 12 Reservation of Proprietary Rights

- (1) The licensor retains all rights to use of the software supplied to the licensee until all payment demands existing at the time of supply or arising subsequently under the contract have been paid in full; and in the case of payment by cheque or bill of exchange until the same has been cleared.
- (2) If the licensee is in arrears on payments owed or if there has been a material breach of the duty of care, the invoking of the reservation of proprietary rights by the licensor is not deemed to be a withdrawal from the contract, unless the licensor expressly notifies the licensee accordingly.
- (3) If the licensor invokes the reservation of proprietary rights, the licensee is no longer entitled to further use of the software. All copies of the program made by the licensee must be deleted.

Software – License Agreement for the SetaPDF Product Range



§ 13 Conflict with other Business Terms

To the extent that the licensee for his part uses General Business Terms, the contract takes precedence over the incorporation of the General Business Terms even if this is not expressly agreed. Where the business terms and the provisions of the agreement agree in content, the former are deemed to be agreed. Any contradictory individual provisions are to be replaced by the provisions of dispositive law. The same applies in the case where the licensee's business terms contain provisions which are not contained within this agreement. If this agreement contains provisions which are not contained in the licensee's business terms, the provisions of this agreement shall apply.

§ 14 Written Form

All agreements which include an amendment of, addition to or precision of this license agreement, and specific guarantees and arrangements shall be made in writing. If these are made by representatives or agents of the licensor, they shall only be binding if the licensor has given his written agreement thereto.

§ 15 Confirmation of Attention having been drawn and Awareness having been made

The customer is aware of the use of this license agreement on the part of the licensor. He has had the opportunity to make himself aware of the contents in a reasonable manner.

§ 16 Applicable Law

The parties agree that in respect of all legal matters arising in the context of the contract, the law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

§ 17 Place of Jurisdiction

To the extent that the licensee is a businessman as defined in the Handelsgesetzbuch (German Commercial Code), a legal person under public law or a separate public law entity Braunschweig is agreed as the place of jurisdiction for all disputes arising in the context of the contract.

Info: The above licence agreement has been translated from German. In case of any discrepancies between this translation and the German original, the German version shall prevail.

Wolfsburg, April 2007

Annex 1 – Definitions and Service Terms



API:

Modular programming interface which provides specific program routines for the “main program”. The API cannot run independently but only in conjunction with an invoking program.

License:

Authority to use the API.

Development License:

A development license allows the licensee to use the API internally for development - commercial use even within the licensee's own institution is prohibited. The development license does not impose any limitation on personnel, users, projects and/or CPUs. The development license has a time limit of 1 year. After one year, the license can be renewed for another year and can be obtained for 20 % of the respective applicable license fee.

Project License:

A project license allows the licensee to use the API for a certain project (intranet or internet). In this context the project can be accessed at different network addresses/URLs. These, without exception, access the same files on the server, and thus are identical in content, function and configuration. The use of the API on a cluster system is not possible. Project licenses are only available for our packages, which were encoded with ioncube and are bound to domain names.

Server License:

A server license allows the licensee to run as many projects as desired on a single server. A server license is bound to the Zend ID/Host ID or the MAC address of the respective server.

All licenses include updates for one year. After one year, this service can be extended for another year for 20 % of the current license price.