

EULA of the bitvoodoo apps

Preamble

This EULA is a legal EULA between You ("Licensee" or "You") and bitvoodoo ag, Hardturmstrasse 101, 8005 Zürich, Switzerland ("Licensor" or "We") to use the Software. This EULA applies from the date when You receive the Software from a Reseller or Licensor ("Purchase"). You agree to be bound by the terms of this EULA by installing, copying, downloading or otherwise using the Software. If You do not agree to the terms of this EULA, You may not install, copy, download or otherwise use the Software. For the Evaluation Period, the provisions in Appendix A shall apply.

The term "You" or "Licensee" means an individual or legal entity (through a duly authorized representative signing this agreement in their capacity as an employee of the legal entity to which the licenses is granted to).

1. Definitions

Confidential Information: All items (e.g. Software, documents, information) that are protected by proprietary rights, contain trade or business secrets or are designated as being confidential.

Documentation: The complete factual and technical description of the Software.

License Fee: The remuneration for the use of the Software as described in section 7.1.

Platform: The online marketplace on which You might have purchased the Software.

Reseller: The third-party owning the Platform and selling the Software via the Platform.

Software: Our standard Software purchased by You. In general, these are the bitvoodoo apps listed on the Atlassian marketplace

Evaluation Period: Time you can evaluate the Software free of charge

2. Obligations of the Licensor

2.1 We will provide You the Software in an compiled form. We will deliver the Software by making it available for download. You are not entitled to be provided with the source code.

2.2 The documentation is available online under <https://wiki.bitvoodoo.ch>. No additional documentation will be submitted after the purchase of the Software. Any other documentation shall only be due if expressly agreed upon. You may use the documentation solely for internal purposes and may reproduce the documentation solely within the context of its use under this EULA.

2.3 The provisions of this EULA for the Software apply to the documentation accordingly.

2.4 Every valid and not expired license contains product support and maintenance for the term of this EULA (see section "Maintenance and Support" for details).

3. Rights of Use

For purposes of Section 3, "use" shall mean the right to install and use the Software by copying, transmitting or loading it into the permanent memory of a computer or other device (each a "Computer") for the processing of the system instructions or statements contained in the Software.

3.1 The Software is legally protected. We are the sole owner of any copyrights, patent rights, trademark rights and any other ancillary copyrights in and to the Software.

3.2 We grant You the worldwide and non-exclusive right of use of the Software for the term of this EULA — solely on hardware systems owned, leased or controlled by You pursuant to the terms of this EULA.

3.3 The right of use is limited to the number users, defined by the bought license size.

3.4 You obtain the right to use after your payment is received by us.

3.5 You are only entitled to decompile the interface information of the Software within the statutory limits under the Copyright law of Switzerland and only if You have notified Us of your plan in writing and we granted you the permission to do so. All knowledge and information that You obtain on the Software in connection with the decompiling process is subject to the confidentiality obligations pursuant to sec. 9. Prior to involving a third party, You shall provide Us with a written statement from such third party in which the same agrees directly vis-à-vis Us to comply with the rules set forth in this sec. 3 and sec. 9.

3.6 All forms of exploitation not explicitly allowed in this EULA, in particular, the renting, lending and distribution in physical or immaterial form, use of the Software by and on behalf of third parties (e.g., by outsourcing, hosting, Software as a service) are not permitted without Our prior written consent.

3.7 We point out that the Software may contain open source software which is subject to its licensing rights. If so, We shall provide software licenses for that particular piece in the framework of the corresponding open source licensing regulations ("open source software"), so that You can use the Software within the meaning of this EULA. Such open-source software is specified in more detail in the corresponding installation package and is licensed in accordance with special open-source regulations. If there are any contradictions between the terms of this EULA and regulations for open source software, the regulations for open-source software shall take precedence in respect of such open-source software.

4. Term and Termination

4.1 This EULA commences with Your Purchase of the Software and runs for a fixed term according to your purchase. During this fixed-term, it cannot be terminated for convenience and after the fixed term it will automatically expire.

4.2 The right of the parties to terminate this EULA for cause remains unaffected. For Us, cause shall exist, in particular, if (i) You are in default for more than two months with an amount of the License Fee that corresponds pro rata temporis to a portion of two months, (ii) You suspend Your payments, itself, or, if permissible, We apply or any other creditor of You applies for the institution of insolvency proceedings or similar statutory proceedings if such a proceeding is opened or declined for a lack of assets, or (iii) if You significantly violate this EULA and fail to cease such violation within a reasonable period for rectification granted by Us.

4.3 Termination pursuant to sec. 4.2 shall always be threatened with a specification of the grounds and the grant of a reasonable period for rectification (normally at least two (2) weeks), and may only be declared within two (2) months after that period has ended. No period for rectification has to be granted if We cannot be reasonably expected to do so.

4.4 In the event that We terminate this EULA for cause, We shall be entitled to retain the License Fee, to which We would have been entitled without termination, as damages, less the expenditures saved by Us due to the termination. This shall not apply if You are not responsible for the cause. Generally, We shall reduce the License Fee by a lump-sum in the amount of 10% to account for saved expenditures. You are entitled to prove that We have saved more than 10%.

4.5 Notices of termination shall be in writing to be effective.

4.6 Upon the expiry or termination of this EULA, the Software may lose significant parts or the total range of the functionality. We may require You to delete the Software from Your IT systems.

5. Obligations of the Licensee (herein "You")

5.1 The installation of the Software shall be conducted by You. We shall reasonably advise and support You in preparing the installation. It is Your duty to observe Our instructions and/or to clarify the installation conditions with Us in due time and comprehensively, in order to be able to carry out the installation smoothly and speedily. You will also operate the Software Yourself.

5.2 If You request support in case of defects You shall send Us detailed error reports and shall assist Us comprehensively and at Your own expense with the error analysis and rectification.

5.3 You are obliged to accept, install and launch all new versions of the Software, updates, patches, etc. provided by Us for error or defect rectification.

5.4 You shall install without delay, at the latest within ninety days after update packages have been provided by Us to fix security issues or bugs to avoid or mitigate claims addressed by sec. 7.

5.5 You are responsible for backing up your data regularly.

6. Purchase, Payment Terms

6.1 If You have purchased the Software via a Platform, You shall make an upfront payment of the License Fee for the respective contract term to the Reseller in accordance with the Platform's terms of use as detailed on Our webpage on the Platform. If You have purchased the Software directly from Us, You shall make an upfront payment of the License Fee for the respective contract term to Us.

6.2 We may require additional compensation for additional expenditure caused by Your conduct in breach of contractual obligations or by the Your failure to cooperate at all, in good time or as agreed, by Your use of the Software contrary to the intended purposes or the terms this EULA, or by the subsequent amendment or expansion of performance demands by You. This shall not apply where You are not responsible for the additional expenditure.

7. Functionality, Maintenance and Support

7.1 You will be able to use a Software that works as advertised in the Platform and described in detail in the documentation, available at <https://wiki.bitvoodoo.ch>.

7.2 We do not warrant that the Software is suitable for a certain purpose of use, unless it is stated explicitly in the documentation mentioned before.

7.3 We will rectify any defects and errors of the Software duly reported by You within a reasonable period of time. We may fix defects by making available a new Software that is free from this defect or by informing You of a way to avoid the effects of the defect.

7.4 We are liable for defects of the Software only to the extent that We are responsible for them.

7.5 If You make enhancements or apps to our Software, You act at Your own risk and sole responsibility. We do not assume any warranty obligations for defects in the components of the Software that are affected by modifications or apps, unless You are able to prove that the defect is a) not due to the modification or app or b) if We have approved the modification or app in writing. The same applies if modifications, apps or other unauthorized interferences by You change or expand the contents or structure of the databases of the Software.

7.6 We make available new releases of the Software from time to time at our own choice. It may happen that new releases do not contain all functionalities of previous releases or do not have full downward compatibility to previous versions of the Software. You can decide at Your own choice to use new releases, unless sec. 5.3 or sec. 5.4 apply. In case you use new releases, this EULA applies to such releases as well.

7.7 We deliver product support which is defined on in detail at [Service level agreement for paid apps](#).

7.8 You are responsible and in the duty to deliver the requested information by our support as log files, step to step and environment descriptions so that defects can be reproduced.

7.9 We represent and warrant that: (i) We own or have the right to license all right, title, and interest in and to the Software as described in the EULA, and the Software and documentation will not infringe any third party's intellectual property rights; and (ii) the Software is free of known viruses or malware, disabling or remote monitoring code, or back doors allowing bypass of security features

8. Liability and Limitation Period

8.1 Except for Section 7.9, We are not liable to You for any consequential, indirect, special or incidental damages under any provisions of this Agreement or for any consequential, indirect, penal, special or incidental damages arising out of any act or failure to act hereunder.

9. Confidentiality and Data Protection

9.1 The parties agree to treat in confidence, also beyond the end of this EULA, all Confidential Information, of which they obtain knowledge, or which are provided to them prior to or during performance of the contract by the other party, unless such Confidential Information becomes publicly known without a breach of the confidentiality obligation. The parties shall keep and safeguard Confidential Information in a manner that excludes access by third parties. You shall only enable access to Confidential Information for those employees and authorized persons who require such access in order to perform their work responsibilities. Such persons shall be instructed about the confidentiality obligation.

9.2 Where, in the course of providing our contractual obligations under this EULA, We process personal data for which You are the responsible party or where access to such personal data is possible, the parties shall in advance enter into a EULA on the processing of personal data that complies with the relevant statutory requirements.

9.3 We may use your contact data (name, email address) for sending You emails with information regarding the Software during an active license or evaluation term. All activities are listed in the [Privacy Policy for paid apps by bitvoodoo](#). You can deny this right at the time of the conclusion of this EULA as well as at any time afterwards by submitting a request via email to dataprivacy@bitvoodoo.ch, stating the type of information you do not want to receive any more.

9.4 We may name You as a referential customer as of the conclusion of this EULA. You can deny this right at the time of the conclusion of this EULA or at any time afterwards by submitting a request via email to dataprivacy@bitvoodoo.ch, requesting the references to be deleted. Upon receipt of such request, We will remove any reference to You within 30 days and make no further reference to You.

9.5 The information you provide will be used by Us to provide support services, to promote our services and to fulfil legal obligations (e.g. accounting). Information about You will not be shared with third parties. You can direct any requests or objections regarding data protection issues to our data protection officer, whom you may contact at dataprivacy@bitvoodoo.ch.

10. Choice of Law and Venue, Final Provisions

10.1 The law of Switzerland applies excluding its conflict of laws rules. The standard UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

10.2 The sole place of jurisdiction for all disputes arising from this EULA is Zürich, Switzerland.

10.3 Any Licensor or third party terms incorporated by reference in or via website link under the Agreement will be null and void and of no legal effect. The Agreement is the exclusive and entire agreement between the Parties with respect to its subject matter and, as of the effective date of the Agreement, supersedes all prior or contemporaneous agreements, negotiations, representations, and proposals of any kind.

Appendix A - Evaluation Period

You can test the Software free of charge for a period of 30 days ("Evaluation Period"). With the expiry the Evaluation Period, the Software will automatically stop functioning.

The following provisions shall apply to the Evaluation Period and take precedence over the general provisions of the EULA set in sections 1 to 10 above:

1. We are not obliged to any maintenance or support.
2. We grant You the right of use of the Software for 30 days without any charge.