



## TERMS AND CONDITIONS

SONARSOURCE SA  
P.O. Box 3764  
CH-1211 Geneva 3  
Switzerland

SONARSOURCE SA ("Company") is a Swiss company, based in Geneva, Switzerland, which is the creator and developer of the open source code quality management platform called **SonarQube™** (previously known as "Sonar") and some related open source plugins, which are available free of charge online at [www.sonarqube.org](http://www.sonarqube.org) under a GNU Lesser GPL License, (Version 3). Company also provides closed source plugins, support and services relating to the SonarQube platform, which are sold either individually or as commercial edition packages under the separate brand name **SonarSource™** and are the subject matter of this document. These terms and conditions only apply to SonarSource closed source plugins, support and services, as well as related edition packages of closed source SonarSource software. Please note that by entering into an agreement with Company, or downloading any SonarSource closed source software, you ("Client") agree that you are conducting this transaction in Switzerland and that the following terms and conditions shall apply:

### 1. DEFINITIONS

(a) The following words shall have the following meanings when interpreting and construing this document:

- 1.1 "**Activation Key**" means the key provided by Company after a Product has been purchased or downloaded by Client in order to activate the Product for a specified period of time.
- 1.2 "**Agreement**" means the terms and conditions set forth herein, which the Client has accepted by virtue of its having ordered or downloaded products or software provided by Company, and which may be updated by Company from time-to-time on its Website at [http://dist.sonarsource.com/SonarSource\\_Terms\\_And\\_Conditions.pdf](http://dist.sonarsource.com/SonarSource_Terms_And_Conditions.pdf).
- 1.3 "**Authorized Subcontractor**" means any subcontractor employed by Client who is physically located on the Client's premises and is providing services to Client or is remotely accessing the Client's servers and is acting on Client's behalf.
- 1.4 "**Authorized Use**" means the installation and operation of a Product for each SonarQube Instance for which a License has been obtained.
- 1.5 "**Authorized Contact**" means the point of contact (person or group of people) designated by Client to contact Company for requests for Support or Services.
- 1.6 "**Client**" means the entity or person that has acquired or purchased Products or Services under the terms and conditions of this Agreement.
- 1.7 "**Commencement Date**" means the date on which an Activation Key for the purchased Product is delivered to the Client, and in the case of Services, the date upon which an invoice was sent by Company to the Client in response to a purchase order.
- 1.8 "**Company**" means SonarSource SA, the Swiss company having the address provided above, registered in Switzerland under UID No. CHE-114.587.664.
- 1.9 "**Due Date**" means the date by which payment for a Product or Services must be received in full, which shall be within thirty (30) days of Company's issuance of an invoice for that Product or Services unless otherwise agreed to in writing by Company.
- 1.10 "**Edition**" means a combination of Plugins, Support and Services that are offered as a package and sold as a commercial License by Company. A list of Editions can be found at <http://www.sonarsource.com/products/editions/>.
- 1.11 "**Effective Date**" means the date on which this Agreement entered into effect, which is usually the Commencement Date (unless otherwise specified in writing).
- 1.12 "**Evaluation**" means a trial use for a Plugin or collection of Plugins before they are purchased by a Client as a Product. No commercial use of any Plugin may be made during any Evaluation period.
- 1.13 "**Evaluation Period**" means fourteen (14) calendar days during which Client may request, via e-mail, a free temporary Activation Key to evaluate one or more Plugins.
- 1.14 "**Intellectual Property**" means all present and future intellectual and industrial property rights in any Product, whether obtained or conferred by registration, automatically, by statute, by common law or in equity; and wherever existing or created, including:
  - (i) patents, designs, copyrights, authors' rights, database rights, domain names, rights in circuit layouts, plant breeder's rights, trade marks, brand names, inventions, product names, know-how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
  - (ii) any application or right to apply for registration of any of these rights;
  - (iii) any registration of any of those rights or any registration of any application referred to in paragraph (ii) above; and
  - (iv) all renewals and extensions of these rights.
- 1.15 "**License**" means the license to use the Product and Company's Intellectual Property rights in any Product for one (1) approved SonarQube Instance (or more than one SonarQube Instance if an Ultimate Edition

Product has been purchased) for a period of one (1) year (unless otherwise agreed to by Company) from the Commencement Date, which may be renewed thereafter for further periods of time with the Company's consent.

- 1.16 "**Long Term Support**" or "**LTS**" means the then-current long term supported version of the SonarQube Platform in existence at that time, for which any critical and blocker issues fixes will be back-ported. The then-current LTS version can be found on Company's Website at <http://www.sonarqube.org/downloads/>.
- 1.17 "**Plugin**" means any piece of official SonarSource closed source software that enhances a SonarQube Instance and has been released by Company via its Website. All Plugins provided by Company are listed on Company's Website at <http://www.sonarsource.com/products/plugins/>.
- 1.18 "**Product**" means any official Plugin or Edition purchased by Client that can be downloaded directly from Company's Website. Each Product is installed on top of a SonarQube Platform, and each Product is considered to be a separate piece of software or a combination thereof that requires a new license under the terms of this Agreement. Products are not covered by the LGPLv3 license that applies to SonarQube Platform software.
- 1.19 "**Service Desk**" means Company's customer Support platform, which is available via the Internet at <http://support.sonarsource.com/>, and through which all requests for Support by Clients are made.
- 1.20 "**Services**" means Training Services and all consulting and development services as described on Company's Website at <http://www.sonarsource.com/services/>. Services do not include Support, but include certain additional services provided as part of certain Editions, such as Getting Started or Advanced Services, which are offered with the Enterprise Edition or the Ultimate Edition of Products as described on the Website at [http://dist.sonarsource.com/SonarSource\\_Edition\\_Comparison.pdf](http://dist.sonarsource.com/SonarSource_Edition_Comparison.pdf).
- 1.21 "**SonarQube Platform**" means the non-commercial, open-source code quality management software platform that is freely available at [www.sonarqube.org](http://www.sonarqube.org), including all past, present or future versions of that software platform.
- 1.22 "**SonarQube Instance**" means each installation of a SonarQube Platform.
- 1.23 "**Support**" means Plugin Support as described in Section 4(b) below (which is offered for all Plugins), as well as any Support package offered with an Edition (see Section 4(c) below). All Support packages offered by Company are described at <http://www.sonarsource.com/support/>. Support does not include Services.
- 1.24 "**Training Services**" means the training Services provided by Company as described at <http://www.sonarsource.com/services/training/>.
- 1.25 "**Website**" means Company's website at [www.sonarsource.com](http://www.sonarsource.com), and includes sub-domain webpages under that web address.

- (b) Company and Client together shall be jointly referred to as the "**Parties**" and individually as a "**Party**".
- (c) All other capitalized terms used in this Agreement not otherwise defined above shall have the meanings assigned to them in the part of this Agreement in which they appear.

## 2. PRODUCTS

Company sells Products via the Website that enhance the SonarQube Platform. Company's Products are available via the purchase of a License and an Activation Key and can be purchased either as individual Plugins or as an Edition that includes different combinations of Plugins having different Support and Services provided with them depending on the type Edition purchased. A detailed description of each Edition and the Plugins, Support and Services it contains is provided at [http://dist.sonarsource.com/SonarSource\\_Edition\\_Comparison.pdf](http://dist.sonarsource.com/SonarSource_Edition_Comparison.pdf). All Products can be purchased and downloaded over the Internet via Company's Website and are subject to this Agreement.

## 3. PRODUCT EVALUATION

- (a) Before purchasing a Product, a Client may request, via e-mail, a free temporary Activation Key to activate and evaluate a Product on a trial basis for a fourteen (14) days Evaluation Period. The Evaluation shall be covered by this Agreement, which shall be deemed to have been automatically accepted by the prospective Client upon the downloading of said Product by Client, save that Company shall have no liability whatsoever for anything that may occur during the Evaluation Period. Company, at its sole discretion, may honour Client's request for an Evaluation by sending, via e-mail, a temporary Activation Key that will expire at the end of the Evaluation Period.
- (b) While Company may offer its Clients a free Evaluation, Company will not be responsible for any use or reliance by Client on any Product during such period, nor shall Company have any obligations, liabilities or responsibilities to Client pursuant to this Agreement or otherwise during such Evaluation Period or for anything that may occur before the Product has actually been purchased by Client.
- (c) Client shall be bound by the terms and conditions of this Agreement during the Evaluation Period, and in particular the obligations set forth in Sections 9 (Client's Obligations) and 10 (Prohibited Uses and Restrictions) below.

#### 4. SUPPORT & SERVICES

- (a) The scope and range of Support and Services will depend on the Product purchased. Plugin Support (see Section 4(b) below) is offered automatically for all Plugins. Additional Support packages (see Section 4(c) below) and Services (see Section 4(d) below) will vary according to the type of Edition purchased as described on the Website at [http://dist.sonarsource.com/SonarSource\\_Edition\\_Comparison.pdf](http://dist.sonarsource.com/SonarSource_Edition_Comparison.pdf). Services that are not included as part of an Edition must be ordered and purchased separately. All requests for Support must be provided via the Company's Service Desk.
- (b) **Plugin Support:** The following support comes free of charge with the purchase of any License and for all Plugins:
- (i) **Upgrades:** meaning that if Company creates a new version, bug fix, release or update to a licensed Plugin, Client is entitled to use it throughout the Term of this Agreement;
  - (ii) **Maintenance:** meaning that Company will use such commercially reasonable efforts as it shall deem appropriate to fix any critical or blocker bugs (or faults) in any Plugin reported by Client within a reasonable time frame, to be determined by Company, based on the gravity of the bug (or fault), *provided that* the Plugin in question is either the latest version of that Plugin or that the bug (or fault) exists in the then-current LTS version of that Plugin, which shall be fixed as well; and
  - (iii) **Support for the Plugin:** meaning that Company will provide responses to all enquiries from Client related to the Plugin that are submitted via the Service Desk within one (1) business day of having received and read that enquiry.
- (c) **Support Packages:** Additional Support packages are available for Edition versions of Products and will vary according to the type of Edition purchased as follows:
- (i) **Standard Support:** for a Professional Edition;
  - (ii) **Advanced Support:** for an Enterprise Edition; and
  - (iii) **Premium Support:** for an Ultimate Edition.
- All Support Packages will apply to the latest version of the SonarQube Platform and the then-current LTS version of that SonarQube Platform.
- (d) **Additional Services:** These are included free of charge as part of Enterprise Edition and Ultimate Edition Products as follows: (i) "Getting Started" Services for Enterprise Edition or Ultimate Edition Products; and (ii) "Advanced Services" for Ultimate Edition Products only. Advanced Services days may be converted into Training Services days at Client's request.
- (e) All Support and Services are provided off-site via the Service Desk (possibly by e-mail, phone or screen share as well in specific cases, depending on the Support package purchased) although Training Services may be provided on-site at Client's expense. Travel expenses are not included in any Support packages or Services and shall be borne by Client. When providing Support or Services, Company shall use reasonable best efforts to ensure the operational success of any Plugin obtained for any SonarQube Instance for which it was purchased.
- (f) Company shall first confirm in writing its acceptance of any request for Support or Services. It shall only be required to use its reasonable best efforts in providing any Support or Services, and shall not be held to any obligation of result or outcome.

#### 5. DELIVERY AND PAYMENT

- (a) **Processing of Orders:** Following the submission by Client of a purchase order for a Product and/or Services, Company shall process the order and deliver an Activation Key for the Plugins ordered and confirmation of any Support and/or Services ordered together with an invoice. Purchase orders may take up to ten (10) days to process.
- (b) The processing of an order shall trigger the Commencement Date of this Agreement and shall be executed as follows:
- (i) **For Plugins:** Company shall deliver an Activation Key;
  - (ii) **For Support:** Company shall notify the Client;
  - (iii) **For Services:** Company and Client shall agree on the dates and times they are to be provided.
- (c) Client shall pay Company the full corresponding price (plus any applicable VAT or sales tax) for the Product and/or Services by wire transfer to be received in Company's account on or before the Due Date as provided for in the corresponding invoice.

- (d) If the invoice is not fully settled by the Due Date, Company may, at its sole discretion:
  - (i) deactivate any Activation Key upon five (5) business days' prior notice;
  - (ii) stop providing any Support or Services; and
  - (iii) terminate this Agreement without prior notice and with immediate effect.
- (e) Any payment, once received, is non-refundable, subject to any other specific provisions in this Agreement.
- (f) No Product received from any source other than an official and validated Company e-mail account, nor any Commencement Date related to such a Product, will be considered valid or protected under the terms of this Agreement.
- (g) Company reserves the right to change the pricing structure for its Products and Services within reason for any given Product that has been purchased.

## 6. CLIENT'S RIGHTS

- (a) All Support and Services provided by Company will be performed in a professional manner by qualified personnel, who will be bound by an obligation of reasonable best efforts and not by an obligation of results.
- (b) Company will provide the Support and Services as defined in Section 4 above for the specified period as of the Commencement Date for each Product or Service purchased.
- (c) The Client's Authorized Contact shall send all requests or questions for Support or Services via the Service Desk. Company undertakes to: (i) reply to such enquiries via the Service Desk or by e-mail within one (1) business day from their receipt; and (ii) notify Client if there is a critical bug or fault in any Plugin purchased (or related SonarQube Platform), as well as update Client when there is an available fix.
- (d) All Support and Services are provided via the Service Desk. Support and/or Services may also be provided by telephone, VOIP, or screen-sharing as deemed appropriate by Company on a case-by-case basis. Save for Training Services, no Support or Services shall be provided on the physical premises of Client's place of business or in any private venue.

## 7. INTELLECTUAL PROPERTY RIGHTS

- (a) Company believes it is the sole and exclusive owner of all Intellectual Property rights relating to any Products, Support or Services or any work product generated by Company pursuant to any Services, and/or has the rights and licences to commercialize the Products, Support and Services provided under this Agreement in or from Switzerland, as well as those rights and licenses directly or indirectly necessary therefor. No rights, licenses or warranties are provided to any of these Intellectual Property rights, save as are covered by the License to use any Products that are provided for by this Agreement.
- (b) Company hereby grants Client a worldwide, non-exclusive, non-transferable, non-sublicensable and revocable License to use the Company's Intellectual Property rights in any SonarQube Instance for which Client has purchased any Products, which License shall last only for one (1) year, unless it is renewed.
- (c) Client undertakes to comply with and not to compromise, challenge or dilute in any way Company's Intellectual Property rights, and to ensure that its employees and Authorized Subcontractors shall respect and comply with these rights, including after termination of this Agreement.
- (d) To the best of Company's knowledge and belief, no Product, Support or Services infringes, misappropriates or violates any Intellectual Property rights of any third party. In the unlikely event of such a claim ever being alleged against Client, which is based on the use of any Plugin on its own, Company will use its reasonable best efforts within ninety (90) days, to replace or modify at its option the Plugin so that it is no longer allegedly infringing any third party's copyrights, patents or trade secrets. Should such a solution not be found, Client shall be free to terminate this Agreement and request a pro-rated refund for the remaining term of the License for that relevant Product. Subject to the foregoing, all Products are provided on an "as is" basis, without any warranties or representations regarding freedom to operate or non-infringement of any Intellectual Property rights of any third parties.

## 8. CONFIDENTIALITY

- (a) Company warrants that it will not sell or disclose Client's personal data and that it will keep all such data confidential and in compliance with Swiss law, except as provided for in Section 15 (Publicity Rights).
- (b) Company and Client shall not disclose one-another's confidential information to any third party without prior written consent.

- (c) Company and Client further undertake:
- (i) not to disclose to any third party any confidential information obtained within the framework of performance of this Agreement, or any confidential document that contains any technical, scientific or commercial data, or other related information;
  - (ii) not to disclose to any third party the other Party's business secrets, such as, particularly, technical information, prices, or quantities ordered;
  - (iii) to disclose to their employees and Authorized Subcontractors only such information as is reasonably necessary for performance of this Agreement; and
  - (iv) to ensure that their employees and their Authorized Subcontractors comply with the confidentiality provisions of this Agreement.
- (d) The confidentiality provisions shall not apply to information or documents that were already in the public domain or entered into the public domain through no fault of Client or Company or were made publicly available by third parties.
- (e) Any confidentiality provisions apply worldwide and for two (2) years following expiration or termination of any License.

## 9. CLIENT'S OBLIGATIONS

- (a) Client shall at all times:
- (i) ensure that only its employees or an Authorized Subcontractor may use a Product;
  - (ii) ensure that Products, Support or Services will only be ordered by Client's Authorized Contact;
  - (iii) ensure that all Products are used only for their Authorized Use in accordance with the provisions of this Agreement;
  - (iv) advise Company in writing within thirty (30) calendar days if Client becomes aware of any unauthorized use or distribution of a Product by any person;
  - (v) verify and take sole responsibility for ensuring that the version of any Plugin that it is using or intends to use is compatible with the SonarQube Instance it was obtained for; and
  - (vi) only use an unmodified version of a SonarQube Platform that was downloaded from <http://www.sonarsource.org/downloads/> or that is currently available from <http://www.sonarqube.org/downloads>.
- (b) Client is not authorized to operate any Plugin on any SonarQube Instance where the SonarQube Platform or Plugin shall have been modified by Client or any third party. Client shall further be responsible for ensuring compliance with all of the provisions contained in Sections 10 (Prohibited Use and Restrictions) and 11 (Unauthorized Use or Distribution) below, whether by itself, its agents, employees, or any Authorized Subcontractors. Any violation of Client's abovementioned obligations shall lead to an automatic termination of all Licenses obtained by that Client. In the event that Client seeks to modify any version of any SonarQube Platform or Plugin, Company shall no longer have any obligations whatsoever to Client, and Client shall be solely responsible for all consequences of any such modifications made by it to any SonarQube Platform or Plugin.
- (c) Client is solely responsible for its own use of any Products and for verifying the absence of any viruses, spyware or malicious programming.

## 10. PROHIBITED USES AND RESTRICTIONS

- (a) Company Products may be used for lawful purposes only and Client shall only request Support or Services for such purposes. Client shall only use any Products in compliance with all local and international applicable laws or regulations as may apply. Transmission, storage, or distribution of any information, data, or material in violation of any such applicable laws or regulations is expressly prohibited.
- (b) Client must not, without the express prior written consent of Company (which may be withheld without cause):
- (i) decompile, reverse engineer, disassemble, modify, adapt, create derivative works from, or otherwise attempt to derive such information from any Plugin;
  - (ii) sell, resell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine readable form any Plugin, or any portion or derivative of a Plugin, whether in whole or in part;
  - (iii) vary or amend any Authorized Use without Company's prior written approval;
  - (iv) publish, promote, broadcast, circulate or otherwise seek to make any commercial use of Company's name, trade name, trademarks, service marks or logo, without the prior written consent of Company; or

- (v) commit any malicious act or permit any such act, by action or omission, the likely result of which would be that Company's reputation might be brought into disrepute or which act or omission could reasonably be expected to have or a material or adverse effect on Company's interests.

## 11. UNAUTHORISED USE OR DISTRIBUTION

- (a) Except as set forth herein, Client:
  - (i) may not, whether through deliberate or negligent act or act of omission of its employees or Authorized Subcontractors or otherwise, resell, distribute or cause the distribution of any Product to any third party other than an for Authorized Use or use any Product on any SonarQube Instance other than the SonarQube Instance for which it was originally purchased (in which case separate Products should be bought for those other SonarQube Instances);
  - (ii) shall prohibit, by appropriate measures, any unauthorized resale, access to, or use of any Product on any other SonarQube Instances than the one for which the License was obtained;
  - (iii) shall not host any Products for or provide access to a SonarQube Instance to any third parties that are not affiliates or related entities;
  - (iv) shall not use any Product as a service to: (1) verify the quality of any software of a third party that is not an affiliate or related entity of Client; or (2) inspect the quality of software on another server belonging to or being operated by an unaffiliated or unrelated third party; and
  - (v) is required to report the discovery of any such violations to Company in writing within thirty (30) calendar days of discovering any such unauthorized use or distribution.
- (b) Any of the aforementioned violations will entitle Company, in addition to any other rights or claims that Company may have against Client or other third parties, and in addition to any other undisputed fees payable by Client under this Agreement, to retroactively charge Client a fee calculated on the basis of the number of prohibited distributions or uses multiplied by the respective list prices that Company charges for related Products for each SonarQube Instance.

## 12. REPRESENTATIONS AND WARRANTIES

- (a) Company represents and warrants to the best of its knowledge and belief that its Plugins do not and will not knowingly contain any computer code that:
  - (i) is designed to disrupt, disable, harm, modify, spy on, delete or otherwise impede in any manner, including aesthetic disruptions or distortions, the operations of any of Client's software, firmware, hardware, computer systems or networks (sometimes referred to as "viruses" or "worms");
  - (ii) would disable the Product or Client's Systems or impair its operation based on the elapsing of a period of time during the effective period of any License; or
  - (iii) would permit Company or any third party to access the Product or Client's systems, whether or not to cause disablement or impairment (sometimes referred to as "trap doors," "access codes" or "back door" devices).
- (b) Company represents and warrants to the best of its knowledge and belief that:
  - (i) it has obtained all rights, approvals and consents necessary to perform its obligations and grant all rights licensed to Client under this Agreement;
  - (ii) all Products, Support and Services will correspond to their descriptions;
  - (iii) Company is authorized to sell or perform, as the case may be, the Product, Support or Services; and
  - (iv) all Support and Services provided by Company will be performed in a professional manner by qualified personnel.
- (c) If Company discovers the non-conformance of any Products, Support or Services to any of the above representations or warranties under Sections 12 (a) or (b), Client may within twenty (20) days, at its sole option but without cost or liability to Company:
  - (i) cancel the relevant Product, Support or Services;
  - (ii) cancel any other Products, Support or Services or pending orders for such other Products, Support or Services previously ordered by Client from Company that Client would be unable to use as a result thereof; and
  - (iii) request a pro-rata refund for the remaining term during which Client will be unable to benefit from use of the Products or Services in question, upon providing substantiating evidence of such non-conformance under this Section 12, which would prevent it from being able to use such Products or Services.
- (d) Company shall not be liable for any non-conformance under this Section 12 of which it had no actual knowledge.



### 13. DISCLAIMER

- (a) Save as may be expressly provided otherwise in this Agreement, all Products, Support and Services are provided on an "as is" basis and on an "as available" basis without any warranties or representations, whether express or implied, oral or written, of any kind or nature, including, but not limited to, any warranties of quality, performance, non-infringement, merchantability or fitness for any particular purpose. Company hereby expressly excludes any such warranties or representations or implications that a Plugin will be error-free, complete, or operate correctly with any given product or system of Client.
- (b) Company does not warrant that its Products are error-free or that they will operate without interruption, nor does Company make any warranty or representation with respect to the performance, quality, reliability, or security of any of its Products, Support or Services.
- (c) Company makes no guarantee as to the availability of its Products, Support or Services and Company shall not be responsible for any loss resulting from loss or deletion of any data or information resulting from the use of any Products, Support or Services, or any network or system outages, file corruptions, or for any other alleged consequences of having used any Products, Support or Services.
- (d) Company does not make any warranties or representations regarding freedom to operate or non-infringement of any Intellectual Property rights of any third parties with respect to any Products, Support or Services, save for the statements of belief made in Sections 7(a) and (d) above. Subject to the foregoing, Client shall be solely responsible for any such occurrence and Company expressly disclaims any responsibility or liability in such cases.
- (e) Company assumes no liability hereunder for any uses of any Plugins by Client, and Company shall have no obligation to indemnify or defend Client or to pay any costs, damages or attorneys' fees for any claims based upon Client's use of or modifications to any Plugin or any combination of any Plugin with other products done by or for the Client.

### 14. LIMITATION OF LIABILITY

- (a) Save as aforementioned, Company will not be liable to any person for any indirect loss, damage, cost, expense or other claim (including consequential, special, or punitive damages or loss of data or profits) resulting from or relating to any Product, Support or Services, including, without limitation:
  - (i) any use or reliance on a Product, Support or Services by a person (including the form and content of any errors in and/or omissions from any information contained in a Product, Support or Services);
  - (ii) any delay, interruption or other failure in the provision of a Product, Support or Services; or
  - (iii) any change in the form or content of a Product, Support or Services.
- (b) In no event will Company's aggregate liabilities under any claims arising out of this Agreement exceed the fees paid by Client under this Agreement.
- (c) Notwithstanding any Party's existing indemnification obligations pursuant to this Agreement for any breaches of its obligations, neither Party will be liable for any lost profits nor for any special, indirect, incidental or consequential damages, regardless of the form of action, even if such Party is advised of the possibility of such damages in advance. The foregoing liability limitations shall apply to the maximum extent allowed by Swiss law.
- (d) To the extent the foregoing liability limitations are not allowed by Swiss law or any other applicable law, then the liability of Company, and the remedy of Client, shall be limited to:
  - (i) the re-supply of any defective Product, Support or Services; or
  - (ii) the refund of any amounts paid by Client for such defective Product, Support or Services.

### 15. PUBLICITY RIGHTS

- (a) Client grants Company the right to include Client's name and/or logo in a list of its customers, which may be publicly displayed on Company's Website and in promotional materials for Company's Products together with other customers of Company.
- (b) Client may terminate the publicity right granted in Section 15(a) above or request to be excluded from appearing in Company's public list of clients, Website, or promotional materials at any time by submitting a written request via e-mail to: [contact@sonarsource.com](mailto:contact@sonarsource.com), or by regular mail sent to the address indicated above. Company shall comply with that termination or request within ten (10) business days from receipt of such notice.

## 16. ASSIGNMENT

- (a) Company shall be entitled to assign or transfer its rights and/or obligations under this Agreement to a purchaser of all or a substantial part of its assets, without Client's consent.
- (b) Client shall not be entitled to assign or transfer its rights and/or obligations under this Agreement without Company's prior written consent. Client may, however, assign this Agreement to its successor in the case of a merger, acquisition or change of control.
- (c) In the event of a permitted assignment to a successor in accordance with Section 16(b) above:
  - (i) Company must be notified, in writing, within ninety (90) days of such assignment;
  - (ii) the assignee must agree in writing to be bound by the terms and conditions contained in this Agreement; and
  - (iii) upon completion of such assignment, the assignor shall make no further use of any Products under this Agreement and shall not be entitled to request any Support or Services.
- (d) The terms and conditions of this Agreement shall survive assignment and the assignor and any permitted assignee shall be bound by them.

## 17. DURATION AND TERMINATION

- (a) The term of this Agreement shall be one (1) year beginning as of the Effective Date for each Product that is purchased by Client or from the Commencement Date of any Service or License for any Plugin, whichever is longer. Client may renew this Agreement by renewing or ordering a new Product or Service prior to or on the expiration date for the original Product or Service.
- (b) Company and Client may terminate this Agreement by written mutual agreement at any time. In such an event, amounts paid by Client will not be refunded except where Company is found to be in material breach of this Agreement, or other special circumstances to be determined at the sole discretion of Company. Any such permitted refunds shall be on a pro-rata basis only, for the remaining period of the Agreement.
- (c) Company may terminate this Agreement unilaterally at any time without prior notice if Client commits a material breach that is not cured within thirty (30) days following receipt of notice or Client being aware of this breach. Failure to fulfil the obligations of Sections 5 (Payment), 7 (Intellectual Property Rights), 8 (Confidentiality), 9 (Client's Obligations), 10 (Prohibited Use and Restrictions) and 11 (Unauthorized Use or Distribution) will be considered a material breach and may, at the sole discretion of Company, be cause for termination of this Agreement at Client's expense. In such an event, amounts paid by Client will not be refunded and Company reserves the right to bring claims for damages and to deactivate Client's account and delete any records relating to the account. Immediately upon receipt of notification of termination from Company (which may be oral or in writing), Client shall:
  - (i) cease using the Product;
  - (ii) cease requesting any Support or Services;
  - (iii) destroy any corresponding Activation Keys; and
  - (iv) provide Company with written confirmation of such destruction within fifteen (15) days from the date of termination.
- (d) Sections 5 (Payment), 7 (Intellectual Property Rights), 8 (Confidentiality), 9 (Client's Obligations), 10 (Prohibited Use and Restrictions), 11 (Unauthorized Use or Distribution), 13 (Disclaimer), 14 (Limitation of Liability), 15 (Publicity Rights), 19 (Governing Law and Jurisdiction) and 21 (General Conditions) shall survive termination of this Agreement for any reason.

## 18. FORCE MAJEURE

Neither Party shall be deemed in default or otherwise be liable under this Agreement, except with regards to payments due herein, due to its inability to perform its obligations hereunder by reason of any fire, earthquake, flood, substantial snow storm, epidemic, accident, explosion, casualty, strike, lock-out, labour controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state, provincial, territorial or national ordinance or law, or any executive, administrative or judicial order (which order is not the result of any act or omission which would constitute a default hereunder) or any failure or delay of any transportation, power or communication system or any other similar cause beyond that Party's control.

## 19. GOVERNING LAW AND JURISDICTION

- (a) This Agreement is deemed to have been made under and shall be governed by and construed in accordance with Swiss law.



- (b) Any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Geneva, Switzerland. The language to be used in the mediation shall be English.
- (c) If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within ninety (90) days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules in effect at that date. Alternatively, if, before the expiration of the said period of ninety (90) days, either Party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be Geneva. The language to be used in the arbitral proceedings shall be English. The dispute, controversy or claim referred to arbitration shall be decided in accordance with Swiss law.

## **20. NO SPECIAL OR AMENDED TERMS AND CONDITIONS**

- (a) The only terms and conditions that apply to this Agreement are those set forth herein. Client may not attempt to:
  - (i) impose special amendments or additions to this Agreement at the time the order is placed, nor before or after the order has been placed; or
  - (ii) negotiate special amendments or additions to this Agreement at the time the order is placed, nor before or after the order is placed.
- (b) Failure to actually read the terms and conditions set forth herein before placing an order does not release Client from being bound by the terms of this Agreement, nor does it oblige Company to give any consideration to amendments or additional terms and conditions, either written or verbally expressed, which Client may seek to apply to this Agreement. The terms of this Section 20 shall also apply to any Evaluations under Section 3.

## **21. GENERAL CONDITIONS**

- (a) This Agreement constitutes the Parties' entire contractual relationship. It cancels and supersedes all prior oral or written communications, proposals, conditions, representations and warranties, and prevails over any conflicting or additional terms mentioned in any price quotation, purchase order, acknowledgment or other communication between the Parties.
- (b) The English version of this Agreement is the only valid version. Translations into other languages are not legally binding.
- (c) If the terms and conditions put forth herein should be modified or changed, any changes or modifications will be posted on Company's Website at [http://dist.sonarsource.com/SonarSource\\_Terms\\_And\\_Conditions.pdf](http://dist.sonarsource.com/SonarSource_Terms_And_Conditions.pdf) and shall automatically come into effect when so posted. Client shall be responsible for checking this site periodically for any such changes or updates.

These terms and conditions were last updated on April 30, 2015 and replace all previous versions as of that date.