

When ordering any Product from SonarSource SA, the following terms and conditions apply:

## 1. DEFINITIONS

“**Agreement**” means the terms and conditions put forth herein.

“**Client**” means the individual or entity (inclusive of subsidiaries) that has licensed the Product under the terms and conditions of this agreement.

“**SS**” means SonarSource, SA, with offices at FONGIT, 18 ch. des Aulx, 1228 Plan-les-Ouates, Switzerland

“**Product**” means a Plugin or Professional Support.

“**Sonar**” means the open source code quality management platform as it is freely available at <http://sonar.codehaus.org>

“**Due Date**” means that within 10 (ten) days of receipt of the blank invoice, payment for a Product must be received in full.

“**Activation Key**” means the key provided by SS after a Plugin purchase in order to activate the Plugin for the given period of time

“**Commencement Date**” means the date on which this agreement takes effect; This Agreement becomes effective on the date the Client receives the “Activation key” by email from SS to activate and begin using the Plugin, or in the case of Professional Support, upon receipt of payment.

“**Authorized Use**” means the defined number of “Sonar Instances” in which the Product may be used by the Client.

“**Authorized User**” means the point of contact (person or group of people) designated by the Client to contact SS for support requests.

“**Sonar Instance**” means the installation of a single Sonar server interoperating with a single Sonar database schema.

“**License**” means the right to use the Product as defined by Authorized Use for one (1) year.

“**Evaluation Period**” means the period, generally fourteen (14) calendar days, for which the Client may request, via email, a free temporary key to activate and evaluate a Plugin.

All other capitalized terms used in this Agreement not otherwise defined above shall have the meanings assigned in the part of this Agreement in which they are defined.

## 2. PRODUCTS

SS provides Products around the Open Source Platform Sonar that respond to customers’ specific needs. SS Products are available via the purchase of a License.

(a) Plugins are extensions to the scope of the Sonar core application. The types of available Plugins and their features are fully described at <http://www.sonarsource.com/plugins/>. Included in the purchase of a License are free (i) Upgrades, meaning that if SS creates a new version of the Plugin, the Client is entitled to use it throughout the Term of this agreement; (ii) Maintenance, meaning that SS will endeavor, but is not obliged, to fix any bugs (or faults) in the software reported by the Client within a reasonable time frame, to be determined by SS, based on the gravity of the bug; and (iii) Support for the Plugin, meaning that SS will provide email responses to all inquiries from the Client related to the Plugin within 24 business hours.

(b) Professional Support on and around the software Sonar is designed to respond to the short or long term support needs of the Client. The services ensure the ongoing success of the software Sonar implementation and provide direct access to Sonar core contributors. The features of SS Professional Support are fully described at <http://www.sonarsource.com/support/>.

## 3. PLUGIN EVALUATION

The Client may request, via email, a free temporary key to activate and evaluate the Plugin for fourteen (14) calendar days. Upon the Client’s acceptance of the terms and conditions put forth in this Agreement, SS, at its discretion, will honor the Client’s request by sending, via email, a temporary key which will expire at the end of fourteen (14) calendar days.

While SS is pleased to offer its Clients a free “Evaluation Period”, during such time SS will not provide for any reason (i) product warranties, upgrades, maintenance or support for the Plugin; (ii) infringement indemnification concerning the Intellectual Property Rights related to the Plugins.

During the “Evaluation Period”, Clauses 2, 4, 5, 6(b), 11,13, 14, 15, 16, and 17 of this Agreement are not applicable or enforceable; (ii) Clauses 1, 3, 6 (a), 6(c), 7, 8, 9, 10, 12, 18, 19, 20 and 21 are applicable and enforceable.

#### 4. PAYMENT

- (a) Upon acceptance of the terms and conditions put forth herein by the Client and following submission of the order, SS shall email the Client a blank invoice, payable by the "Due Date", confirming the order. An email shall be sent to the address supplied by the Client for such purposes.
- (b) In consideration for the Product selected by the Client, the Client shall pay SS the applicable Product price (plus any applicable VAT or sales tax) by wire transfer.
- (c) If the invoice is not fully settled at the "Due Date", SS may, at its sole discretion, terminate this Agreement without prior notice.
- (d) Once payment is received: (i) for a Plugin purchase, SS delivers the "Activation Key" to the Client via email, the deliverance of which shall be recognized as the "Commencement Date". No Plugin will be activated until payment is received in full; (ii) for a Professional Support Package, the full payment receipt date shall be recognized as the "Commencement Date". Any payment, once received, is non-refundable.
- (e) No Product received from any source other than an official and validated SS email account, nor any "Commencement Date" related to such a Product, will be considered valid or protected under the terms of this agreement.
- (f) SS reserves the right to change the pricing structure for all its Products. The current pricing structure for each product may be viewed at <http://www.sonarsource.com>.

#### 5. SS's RIGHTS AND OBLIGATIONS

All Services provided by SS will be performed in a professional manner by qualified personnel.

- (a) With regards to Plugins, upon receipt of payment from the Client, SS will (i) supply the Client with the "Activation Key" via email, and to the best of SS's knowledge this Product shall be free from viruses or malicious programming; and (ii) provide Maintenance, upgrades and support as defined in Clause 2(a) for the specified period as related to the Plugin purchased.
- (b) With regards to Professional Support, the "Authorized User" is afforded the right to send emails to SS's core team who undertakes to (i) reply to Client inquiries via email within 24 business hours and (ii) notify the Client if there is a critical bug or fault in the Product (Sonar), as well as update the Client when there is an available fix.
- (c) Professional Support is provided exclusively via email. No services are provided by telephone, fax or on the physical premises of the Client's public or private place of business, nor public or private home.
- (d) SS reserves the right to modify or change the terms and conditions of this agreement as related to changes to its core business model or structure.

#### 6. INTELLECTUAL PROPERTY RIGHTS

- (a) SS is the sole and exclusive owner of all the Intellectual Property Rights relating to the Plugins under this Agreement as well as those rights directly or indirectly connected with those.
- (b) SS hereby grants the Client a worldwide, non-exclusive, non-transferable, non-sub licensable license on the Plugin.
- (c) The Client undertakes to comply with SS's Intellectual Property Rights and to ensure compliance with them by its employees for an unlimited period including after termination of this Agreement.

#### 7. CONFIDENTIALITY

- (a) SS warrants that it will not sell or disclose the Client's personal data and that it will keep all such data confidential, except as provided for in Clause 16 (Assignment).
- (b) SS and the Client shall not disclose one another's confidential information to any third party without prior written consent.
- (c) SS and the Client further undertake:
  - (i) not to disclose to any third party the results obtained within the framework of performance of this Agreement, or any document be it technical, scientific or commercial data, or other related information;
  - (ii) not to disclose to any third party business secrets, such as, particularly, technical information, prices, and quantities ordered;
  - (iii) to disclose to their employees only such information as is reasonably necessary for the due performance of this Agreement; and
  - (iv) to ensure that their employees and their Authorized Subcontractors comply with the confidentiality clauses of this Agreement.
- (d) Confidentiality terms do not apply to information or documents SS and the Client can show are already in the public domain or those they were aware of prior to disclosure by the other party.
- (e) Confidentiality terms apply worldwide and for an unlimited duration, such that SS and the Client will remain subject to them after termination of this Agreement.

## 8. THE CLIENT'S OBLIGATIONS

The Client must at all times: (a) ensure that only an Authorized User may use the Product and only for Authorized Use in accordance with the terms and conditions of this agreement; (b) advise SS in writing within thirty (30) calendar days if the Client becomes aware of any unauthorized use or distribution of the Product by any person; (c) verify and take sole responsibility for ensuring that the version of the Plugin they are using or intend to use is compatible with the version of Sonar they are using or intend to use; and (d) only use a version of Sonar that was downloaded from <http://sonar.codehaus.org/downloads/>. Using a version of Sonar that was downloaded from <http://sonar.codehaus.org/downloads/> and modified afterwards (apart from configurations) is not permitted unless recommended by SS.

## 9. PROHIBITED USES AND RESTRICTIONS

(a) SS Products and Services may be used for lawful purposes only. Transmission, storage, or distribution of any information, data, or material in violation of any applicable law or regulation is prohibited.

(b) The Client must not, without the prior written consent of SS, which may be withheld and which may include certain conditions: (i) decompile, reverse engineer, disassemble, modify, adapt, create derivative works from, or otherwise attempt to derive the Plugins; (ii) sell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine readable form the Product, in whole or in part. (iii) vary or amend the Authorized Use without SS's prior written approval; (iv) publish, promote, broadcast, circulate or refer publicly to the SS name, trade name, trademark, service mark or logo, without the prior written consent of SS; and (v) commit any malicious act or omission the likely result of which is that SS's reputation will be brought into disrepute or which act or omission could reasonably be expected to have or does have a material and adverse effect on SS's interests.

## 10. UNAUTHORISED USE OR DISTRIBUTION

The Client (a) may not, whether through deliberate or negligent act or act of omission, distribute or cause the distribution of the Product to any third party other than an Authorized User; and (b) is required to report discovery of any such violations to SS in writing within thirty (30) calendar days.

Any of the aforementioned violations will entitle SS to, in addition to any other right or claim that SS may have against the Client, retroactively charge the Client, in addition to any other fees payable by the Client under this agreement, a fee calculated based on the number of prohibited distributions multiplied by the respective list prices that SS charges for the Product.

## 11. REPRESENTATIONS AND WARRANTIES

(a) SS represents and warrants that the Product does not and will not knowingly contain any computer code that: (i) is designed to disrupt, disable, harm, modify, delete or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of the Product or any of the Client's software, firmware, hardware, computer systems or networks, such devices sometimes referred to as "viruses" or "worms," (ii) would disable the Product or the Client's Systems or impair their operation based on the elapsing of a period of time; or (iii) permits SS or any third party to access the Product or the Client's Systems whether or not to cause disablement or impairment (sometimes referred to as "trap doors," "access codes" or "back door" devices).

(b) SS represents and warrants that (i) it has obtained all rights, approvals and consents necessary to perform its obligations and grant all rights to the Client under this Agreement; (ii) it is authorized to sell or perform, as the case may be, the Product; (iii) all Services provided by SS will be performed in a professional manner by qualified personnel; (iv) the Product does not infringe, misappropriate or violate any patent, copyright, trademark, trade secret or other Intellectual Property Right of any third party.

(c) If SS fails to remedy any nonconformance to any of the above warranties within twenty (20) days, the Client may at its option and without cost or liability, cancel (i) the applicable Schedule(s) with respect to the affected Product; and (ii) any other goods, services or licensed materials previously ordered by the Client from SS that the Client is unable to use as a consequence of the nonconformity; (iii) Further, SS will, upon request, return to the Client a pro-rated refund for the remaining "Term" of this Agreement during which the Client will be unable to benefit from use of the Product in question. The warranties set forth in this Clause 11 apply to all replacement Products.

## 12. DISCLAIMER

(a) Save as provided in Clauses 11, 13 and 14, the Product is provided on an "as is" and "as available" basis without any warranties or representations, express or implied, oral or written, of any kind or nature, including, but not limited to, any warranties of performance or merchantability or fitness for a particular purpose, including without limitation that SS does not warranty that the Product will be error-free, complete, or correct.

(b) SS does not warrant that its services are error-free or that they will operate without interruption, nor does SS make any warranty with respect to the quality, reliability, timeliness or security of its services.

(c) SS makes no guarantee as to the availability of service and is not responsible for any loss of information resulting from deletion of services, network or system outages, file corruption, or any other reasons.

## 13. INFRINGEMENT INDEMNIFICATION

(a) The Client shall indemnify and defend SS from and against any claims, losses, liabilities, expenses, damages and settlement amounts incurred by SS from the breach of this Agreement by the Client. The Client will also indemnify and hold SS harmless from and against any claims brought by third parties arising out of the Client use of SS's services.

(b) The Client will defend or settle, at its expense, any action brought against SS based upon the claim that any modifications to the Product or combination of the Product with products infringes or violates any third party right; provided, however, that: (i) SS shall notify the Client promptly in writing of any such claim; (ii) SS shall not enter into any settlement or compromise any such claim without the Client's prior written consent; (iii) The Client shall have sole control of any such action and settlement negotiations; and (iv) SS shall provide the Client with information and assistance, at the Client's request and expense, necessary to settle or defend such claim. The Client agrees to pay all damages and costs finally awarded against SS attributable to such claim.

(c) SS assumes no liability hereunder for, and shall have no obligation to defend the Client or to pay costs, damages or attorney's fees for, any claim based upon any modifications to the Product or combination of any of the Product with other products.

(d) SS will defend or settle, at its expense, any action brought against the Client, and its Affiliates and all of their direct and indirect officers, directors, employees, agents, successors and assigns, arising from or relating to any actual or alleged infringement, violation or misappropriation of the Intellectual Property Rights of any third party by SS Product; provided, however, that: (i) The Client shall notify SS promptly in writing of any such claim; (ii) The Client shall not enter into any settlement or compromise any such claim without SS's prior written consent; (iii) SS shall have sole control of any such action and settlement negotiations; and (iv) The Client shall provide SS with information and assistance, at SS request and expense, necessary to settle or defend such claim. SS agrees to pay all damages and costs finally awarded against the Client attributable to such claim.

(e) In the event of a claim relating to any actual or alleged infringement, violation or misappropriation of the Intellectual Property Rights of any third party, SS will, at its option and discretion, within twenty (20) days, replace or modify the Product so that it is no longer infringing, violating or misappropriating any Intellectual Property Rights, all without incurring a loss of functionality or performance.

## 14. LIMITATION OF LIABILITY

Except for the indemnification obligations of Clause 13 or breach of Clauses 4, 5, 7, 8, 9 and 10, neither party will be liable to any person for any loss, damage, cost, expense or other claim (including consequential, direct, indirect, special, punitive or other damages and loss of data or profits) in relation to the Product including, without limitation: (a) any use or reliance on a Product by the person (including the form and content of errors in and/or omissions from any information contained in a Product); (b) any delay, interruption or other failure in the provision of the Product; or (c) any change in the form or content of the Product. In no event will SS's and the Client's aggregate liabilities under any claims arising out of this agreement exceed the fees paid by the Client under this agreement. Except for each party's indemnification obligations or breach of Clauses 4, 5, 7, 8, 9 and 10, neither party will be liable for lost profits or for special, indirect, incidental or consequential damages, regardless of the form of action, even if such party is advised of the possibility of such damages. The foregoing liability limitations shall apply to the maximum extent allowed by applicable law. To the extent the foregoing liability limitations or the warranty disclaimers of Clause 12 are not allowed by applicable law, then the liability of SS, and the remedy of the Client, shall be limited to: (i) the re-supply of any defective Product; or (ii) the refund of any License fees paid by the Client for such defective Product.

## 15. PUBLICITY RIGHTS

The Client grants SS the right to include the Client in a list of customers which will be publicly displayed on SS's website and in Product promotional material.

The Client may request to be excluded from appearing in the SS public list of clients or promotional material at any time by submitting a written request via email to: [contact@sonarsource.com](mailto:contact@sonarsource.com), or by post to: SonarSource SA, c/o FONGIT, 18 ch. des Aulx, 1228 Plan-les-Ouates, Switzerland. Requests made after purchasing may take thirty (30) calendar days to process.

## 16. ASSIGNMENT

(a) SS 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 the Client's consent.

(b) The Client shall notify SS of any assignment or transfer of its rights and/or obligations under this Agreement. The Client may assign this agreement to succeeding parties in the case of a merger, acquisition or change of control.

(c) If in the case of 16(b), the succeeding party is a supplier to a government agency, (i) SS must be notified, in writing, within ninety (90) days of such assignment, (ii) the assignee must agree to be bound by the terms and conditions contained in this agreement and (iii) upon termination of such assignment the assignee makes no further use of the software licensed under this agreement.

(d) Any permitted assignee shall be bound by the terms and conditions of this Agreement.

(e) The terms of this agreement shall survive assignment.

## 17. DURATION AND TERMINATION

(a) The "Term" of this Agreement for the purchase of a Product means the one (1) year period beginning on Commencement date. The Client may renew this Agreement by ordering a new Plugin or Professional Support package.

(b) SS and the Client may terminate this Agreement by mutual Agreement in writing at any time. In such an eventuality, amounts paid by the Client will not be refunded except in special circumstances to be determined at the sole discretion of SS. In the event of termination by mutual agreement, the parties undertake not to assert any claims against each other.

(c) SS may terminate this Agreement unilaterally at any time without prior notice if the Client commits a material breach. Failure to fulfill the obligations of Clauses 7, 8, 9, and 10 will be considered a material breach and may, at the sole discretion of SS, be cause for termination of this agreement at the Client's expense. In such an eventuality, amounts paid by the Client will not be refunded and SS shall reserve the right to bring claims for damages. SS reserves the right to deactivate the Client's account and delete any records relating to the account. Immediately upon termination, any Accessible Code in possession, custody or control of the Client must be destroyed and written confirmation of such destruction provided to SS.

(d) Clauses 1, 4, 6, 7, 8(b), 9, 10, 12, 13, 14 and 19 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, labor 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 parties' control.

## 19. GOVERNING LAW AND JURISDICTIONS

This Agreement is deemed to have been made under and shall be governed by Swiss law only. Any dispute in relation to this Agreement shall be settled by the ordinary courts of the Republic and Canton of Geneva.

## 20. NO SPECIAL OR AMENDED TERMS AND CONDITIONS

The only terms and conditions that apply to this agreement are those put forth herein. The Client may not attempt to (a) impose special amendments or additions to this Agreement at the time the order is placed, nor via email, post or phone either before or after the order has been placed; (b) negotiate special amendments or additions to this Agreement at the time the order is placed, nor via email, post or phone either before or after the order is placed, nor after payment has been received by SS from the Client for any SS Product.

Failure to actually read the terms and conditions put forth herein before placing an order does not release the Client from being bound by the terms of this Agreement, nor does it oblige SS to give any consideration to amendments or additional terms and conditions, either written or verbally expressed, which the Client may seek to apply to this Agreement. The terms of this Clause 20 shall also apply to Clause 3.

## 21. GENERAL CONDITIONS

The English version of this Agreement is the only valid version. Translations into other languages are not legally valid.

If the terms and conditions put forth herein should be modified or changed, any changes or modifications will be posted on the site <http://www.sonarsource.com/>. Please check back periodically. These terms and conditions were last updated on the 20th of February, 2010.