



TERMS AND CONDITIONS

SONARSOURCE SA
P.O. Box 765
CH-1215 Geneva 15
Switzerland

SONARSOURCE SA (“**Company**”) is a Swiss company, based in Geneva, Switzerland, which is the creator and developer of the open source code quality platform called **SonarQube™** (also known as “Sonar”), the **SonarLint™** open source extension to IDEs that provides developers with instant feedback about quality while they are coding, and some related open source plugins, which are all available free of charge online at www.sonarqube.org or www.sonarlint.org under a GNU Lesser GPL License, (Version 3) (an “**LGPLv3**” license), through an open source Community Edition provided by Company via its official websites. Company also sells certain closed source Products and related Support as described on its Website at www.sonarsource.com, which are sold under the brand **SonarSource™** and are the subject matter of this Agreement. (Company also develops and sells a **SonarCloud™** “software as a service” (“SaaS”) product, which is not covered by this Agreement.) Please note that by entering into an agreement with Company for any SonarSource Products or Support as described in this Agreement, or downloading any SonarSource Products, 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 on a specified SonarQube Instance in accordance with its License.
- 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 Support, and which may be updated by Company from time-to-time on its Website at:
https://www.sonarsource.com/docs/sonarsource_terms_and_conditions.pdf.
- 1.3 “**Authorized Use**” means the installation and operation of a Product on each SonarQube Instance for which a License has been obtained, and/or use of any Support purchased or included as part of a Product by an Authorized Contact.
- 1.4 “**Authorized Contact**” means the persons or group of people designated by Client, who are authorised to contact Company for Support.
- 1.5 “**Client**” means the entity or person that has purchased a Product or Support under the terms and conditions of this Agreement, and who will be using them in accordance with their Authorized Use. The term “Client” when interpreting the scope of a License or Authorized Use includes its Authorized Contact and any affiliates of Client.
- 1.6 “**Commencement Date**” means the date upon which an invoice is sent by Company to the Client, following the reception of a purchase order for a Product or Support. The invoice will be sent along with an Activation Key for a purchased Product, unless insufficient information was available to Company to deliver an Activation Key at that time, in which case the Activation Key will be sent later.
- 1.7 “**Community Edition**” means the open source SonarQube and SonarLint software and related open source plugins developed by SonarSource that are available free of charge under an LGPLv3 license as referred to in the opening paragraph of this Agreement, which can be downloaded from the Website or other official SonarSource websites belonging to Company. The Community Edition is not included in the definition of Products and is not covered by the terms and conditions of this Agreement.
- 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 and/or Support must be received in full, which shall be within thirty (30) days of Company’s issuance of an invoice for the corresponding Product and/or Support unless otherwise agreed to in writing by Company.
- 1.10 “**Edition**” means a combination of software features that are offered as a package by Company as official SonarSource software, which can be downloaded from Company’s Website. Company offers the following four (4) Editions: (i) the Community Edition defined in Clause 1(a).1.7 above, and (ii) the three (3) upgrades to that basic open source Edition, which are the Products covered by this Agreement and that are defined below.
- 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 of a Product before it is purchased by a Client. No commercial use of any Product may be made during any Evaluation period. A free, temporary Activation Key may be obtained from Company to evaluate a Product during the Evaluation period in accordance with Section 3.

- 1.13 **"Intellectual Property"** means all present and future intellectual and industrial property rights in any Product or Support, 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, trademarks, trade dress, brand names, product names, logos, inventions, 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 the Intellectual Property assets identified in (i) above;
 - (iii) any registration of any of those Intellectual Property assets or any registration of any application referred to in paragraph (ii) above; and
 - (iv) all renewals and extensions of the rights and assets referred to in (i)-(iii) above.
- 1.14 **"License"** means a license for the Client to use a purchased Product and Company's Intellectual Property rights in such Product for one (1) approved SonarQube Instance for a period of one (1) year (unless otherwise agreed to by Company in writing) from the Commencement Date, which may be renewed thereafter for further periods of time with the Company's consent. The scope of any License is limited to its Authorized Use and is set out in Clause 6(b) below.
- 1.15 **"Lines of Code"** means the addition of all of lines of code for each project analyzed in a SonarQube Instance. The lines of code of a project are the lines of code found by the SonarQube software during the latest analysis of this project. They are not cumulative when the same project is re-analysed.
- 1.16 **"Long Term Support" or "LTS"** means the then-current long term supported version of the SonarQube software in existence at that time, for which any critical and blocker issues fixes will be back-ported. The then-current LTS version for that platform can be found on Company's Website at <http://www.sonarqube.org/downloads/>.
- 1.17 **"Product"** means a commercial Edition that is sold for a fee by Company, as listed on its Website at <https://www.sonarsource.com/plans-and-pricing/>. This covers any of the following three Editions: (i) a Developer Edition, (ii) an Enterprise Edition, or (iii) a Data Center Edition, as described on that Website page. Each Product is installed as an upgrade and runs on top of a Community Edition. Products are covered only by the License provided for in this Agreement, and are not covered by the LGPLv3 license that applies to a Community Edition.
- 1.18 **"Service Desk"** means Company's customer Support platform, which is available via the Internet at <http://support.sonarsource.com/>, through which all requests for Support by Clients are to be made.
- 1.19 **"SonarQube Instance"** means each installation of a Community Edition.
- 1.20 **"Support"** means access to Company's dedicated support team that is available to answer any questions or requests for assistance for an Edition. Support is provided via the Service Desk as described in Section below.
- 1.21 **"Updates"** means all new features, improvements or bug fixes, that are provided for an Edition.
- 1.22 **"Website"** means Company's website at www.sonarsource.com, and its 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

- (a) Company sells three (3) Products as described on its Website that enhance its Community Edition. Company's Products are available through the purchase of a License and an Activation Key in accordance with the terms of this Agreement. Each Product may include different features as described on the Website.
- (b) Client shall be entitled to get all Updates free of Charge once a Product has been purchased.
- (c) Support generally comes as a chargeable option. However, it may be included free of charge for certain Products beyond a certain volume of Lines of Code.

3. PRODUCT EVALUATION

- (a) Before purchasing a Product, a Client may request a free temporary Activation Key to make an Evaluation of that Product for a fourteen (14) day 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. Company, at its sole discretion, may honour Client's request for an Evaluation or refuse to do so.
- (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 an Evaluation period, nor shall Company have any obligations, liabilities or responsibilities to Client pursuant to this Agreement or otherwise during the 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 8 (Client's Obligations), 9 (Prohibited Uses and Restrictions) and 10 (Unauthorized Use or Distribution) below.

4. SUPPORT

- (a) Company provides access to a dedicated Support team, which is available to Authorized Contacts via the Service Desk for any questions or requests for assistance that Client may have with respect to any Editions it is using. Support generally comes as a chargeable option, however it may be included free of charge for certain Products beyond a certain volume of Lines of Code. Please check the Website for more information on commercial offerings.
- (b) Support includes the following for all Editions:
 - (i) 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 Edition 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 Edition in question is either the latest version of that Edition available on the Website or that the bug (or fault) exists in the then-current LTS version for that Edition, which shall be fixed as well; and
 - (ii) Online Support: meaning that Company will provide responses to all enquiries from Client relating to an Edition within one (1) business day of having received that enquiry via Company's Service Desk.
- (c) Support will be provided to customers who are using the latest available version or then-current LTS version of their Edition.
- (d) All Support is provided via the Service Desk. Company may also provide Support by e-mail, telephone, videoconferencing, VOIP, or screen-sharing, as deemed appropriate by Company on a case-by-case basis at its sole discretion. No Support shall be provided on Client's physical premises, at Client's place of business or in any location that may require a member of Company's Support team to travel.
- (e) All expenses for Support other than Maintenance and Online Support shall be borne by Client.
- (f) Support will be performed in a professional manner by qualified personnel as of the Commencement Date for each qualifying Product or Support purchased.
- (g) Company shall first confirm in writing its acceptance of any request for Support that is sent by an Authorized Contact. When providing Support, Company shall use its reasonable best efforts to ensure the operational success of any licensed Edition, and Company shall not be held to any obligation of result or outcome.
- (h) Client will promptly inform any Authorized Contact who has requested assistance for a reported bug or fault whenever there is an available fix for that critical bug or fault.

5. DELIVERY AND PAYMENT

- (a) Processing of Orders: Following the submission by Client of a purchase order for a Product or Support, Company shall process the order and deliver an Activation Key for the Product ordered and confirmation of Client's eligibility for Support and the maximum volume of Lines of Code that can be analysed with that Product, 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 for the License of the Product purchased, and shall be executed as follows:
 - (i) For Products: Company shall deliver an Activation Key together with an invoice; and
 - (ii) For Support: Company shall notify the Client together with an invoice;
- (c) Client shall pay Company the full corresponding price (plus any applicable VAT or sales tax) for the Product and/or Support purchased 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; 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) Company shall not be responsible for any Edition that was downloaded from a source other than the Website or another official website managed by Company. Client shall only use an Activation Key that has been provided by Company from a Company e-mail account.
- (g) Company's pricing strategy for its Products is based on the range of features it includes and the maximum number of Lines of Code that can be analysed on a SonarQube Instance with each License purchased. Company commits not to unreasonably change its prices for an existing Product or Support after it has been purchased, although Company reserves the right to review its pricing strategy and the contents of its Editions as it may deem reasonable from time-to-time. Any new pricing strategy or material changes to an Edition or Support will be communicated at least three (3) months before it will come into effect.

6. INTELLECTUAL PROPERTY RIGHTS

- (a) Company represents and warrants to the best of its knowledge and belief that it is the sole and exclusive owner of all Intellectual Property rights relating to any Products and Support, and/or that it has the rights and licences to commercialize such Products and Support from Switzerland, as well as those rights and licenses directly or indirectly necessary therefor. No rights, licenses or warranties are provided to any of Company's Intellectual Property rights, save as are covered by the License to use any Products and receive any Support that are provided for by this Agreement.
- (b) Company hereby grants Client a worldwide, non-exclusive, non-transferable, non-sublicensable and revocable License for the Authorized Use of the Company's Intellectual Property rights in any Products on any SonarQube Instance for which it was purchased, and to receive any related Support for a qualifying Product, which License shall last only for one (1) year from its Commencement Date, unless it is renewed. The License is limited to the maximum volume of Lines of Code included with each Product purchased.
- (c) Client undertakes to comply with and not to challenge or misuse any of Company's Intellectual Property rights, including its trademarks, designs, trade secrets, copyrights or logos.
- (d) To the best of Company's knowledge and belief, no Product or Support 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 that is based on the use of any Product on its own (and not on how it interacts with other software or hardware), Company will use its reasonable best efforts within ninety (90) days to replace or modify at its option the Product 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 Product and any Support that may have been purchased with it. Subject to the foregoing, all Products and Support 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.

7. CONFIDENTIALITY

- (a) Company warrants that it will comply with all applicable data privacy laws in its jurisdiction and that it will not sell or disclose Client's private data.
- (b) Each Party recognises that any closed source code or data it receives from the other Party that is not publicly available should be considered as confidential information belonging to the disclosing Party.
- (c) Company and Client shall not disclose one-another's confidential information to any third party without the prior written consent of the disclosing Party.
- (d) Company and Client further undertake:
 - (i) not to disclose to any third party any confidential information obtained as a result of having entered into this Agreement, or any confidential information that contains any technical, scientific or commercial data, or other related information, which is not available in the public domain;
 - (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, consultants and subcontractors only such confidential information as is reasonably necessary for performance of this Agreement; and
 - (iv) to ensure that their employees, consultants and subcontractors comply with the confidentiality provisions of this Agreement.
- (e) These 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.

- (f) Any confidentiality provisions apply worldwide and for two (2) years following expiration or termination of any License.

8. CLIENT'S OBLIGATIONS

- (a) Client shall at all times:
 - (i) ensure that Support will only be requested by Client's Authorized Contact and for the benefit of Client;
 - (ii) ensure that all Products are used only for their Authorized Use in accordance with the provisions of this Agreement;
 - (iii) 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;
 - (iv) verify and take sole responsibility for ensuring that the version of any Product that it is using or intends to use is compatible with the SonarQube Instance it was obtained for; and
 - (v) only use an unmodified version of a SonarQube and/or SonarLint tool that was downloaded from <https://www.sonarlint.org/> or <https://www.sonarqube.org/>.
- (b) Client is not authorized to operate any Products on any SonarQube Instance in which any part of the Edition 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 9 (Prohibited Use and Restrictions) and 10 (Unauthorized Use or Distribution) below, whether by itself, its agents, employees, consultants or any 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 part of an Edition, Company may cease providing Support, and Company shall no longer have any obligations whatsoever to Client. Client shall be solely responsible for all consequences of any modifications made by it to any part of an Edition.
- (c) Client is responsible for its own use of any Products and for verifying the absence of any viruses, spyware or malicious programming.

9. PROHIBITED USES AND RESTRICTIONS

- (a) Company's Editions may be used for lawful purposes only, and Client shall only request Support for lawful purposes. Client shall use all Editions in compliance with all local and international applicable laws or regulations as may apply. Any 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 Product;
 - (ii) sell, resell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine-readable form any Product, or any portion or derivative of a Product, 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 be prejudicial or have a material adverse effect on Company's interests.

10. UNAUTHORIZED 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, consultants or subcontractors or otherwise, resell, distribute or cause the distribution of any Product to any third party other than for an 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 a License was obtained;
 - (iii) shall not request Support for the benefit any person who is not an entitled to Support; and
 - (iv) shall report the discovery of any violations of Sections 9 and 10 of this Agreement to Company in writing, within thirty (30) calendar days of discovering any such violation.

- (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 Support or Products for each SonarQube Instance.

11. REPRESENTATIONS AND WARRANTIES

- (a) Company represents and warrants that its Products 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 Products or Client's systems or impair their operation based on the elapsing of a period of time or for exceeding the maximum numbers of Lines of Code during the effective period of any License; or
 - (iii) would permit Company or any third party to access a 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 and Support will correspond to their descriptions on the Website; and
 - (iii) Company is authorized to sell or perform, as the case may be, any Product and/or Support purchased.
- (c) If Company discovers the non-conformance of any Products or Support to any of the above representations or warranties under Clauses 11(a) or (b) above, Client may within twenty (20) days, at its sole option but without cost or liability to Company:
- (i) cancel the relevant Product or Support;
 - (ii) cancel any other Products or Support or pending orders for such other Products or Support 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 Support in question, upon providing substantiating evidence of such non-conformance under this Section 11, which would prevent it from being able to use such Products or Support.
- (d) Company shall not be liable for any non-conformance under this Section 11 of which it had no actual knowledge.

12. DISCLAIMER

- (a) Save as may be expressly provided otherwise in this Agreement, all Products and Support 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 Product 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 or Support.
- (c) Company makes no guarantee as to the availability of its Products and Support and Company shall not be responsible for any loss resulting from the loss or deletion of any data or information resulting from the use of any Products or Support, or any network or system outages, file corruptions, or for any other alleged consequences of having used any Products or Support.
- (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 or Support, save for the statements of belief made in Sections 6(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 Products or Support 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 Product or any combination of any Product with any other products purchased, developed, done by or for the Client on its own or with third parties.

13. 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 Products or Support, including, without limitation:
 - (i) any use or reliance on a Product or Support by a person (including the form and content of any errors in and/or omissions from any information contained in a Product or Support);
 - (ii) any delay, interruption or other failure in the provision of a Product or Support; or
 - (iii) any change in the form or content of a Product or Support.
- (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 within the previous twelve (12) months for that Product or Support.
- (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 the applicable law of this Agreement.
- (d) Should any of the foregoing liability limitations not be allowed by the applicable law of this Agreement, then the liability of Company, and the remedy of Client, shall be limited to:
 - (i) the re-supply of any defective Product or Support; or
 - (ii) the refund of any amounts paid by Client for such defective Product or Support.

14. REVOCABLE PUBLICITY RIGHTS

- (a) Client grants Company the revocable right to include Client's name and/or logo in a list of its customers, which may be publicly displayed on the Website, together with other customers of Company.
- (b) Client may revoke the publicity right granted in Clause 14(a) above at any time, or request to cease appearing on Company's Website at any time, by submitting a written request via e-mail to: info@sonarsource.com, or by regular mail sent to the address indicated above. Company shall comply with such a termination or revocation request within ten (10) business days from receipt of such notice.

15. ASSIGNMENT

- (a) Company and Client shall be entitled to assign or transfer their rights and/or obligations under this Agreement to a purchaser of all or a substantial part of its assets, without the other Party's consent.
- (b) In the event of a permitted assignment by Client in accordance with Section 15(a) 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.
- (c) The terms and conditions of this Agreement shall survive assignment, and the assignor and any permitted assignee shall be bound by them.

16. DURATION AND TERMINATION

- (a) The term of this Agreement shall be one (1) year from the Commencement Date for each Product or Support that is purchased by Client. Client may renew this Agreement by renewing or ordering a new Product or Support prior to or on the expiration date for the original Product or Support.
- (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), 6 (Intellectual Property Rights), 7 (Confidentiality), 8 (Client's Obligations), 9 (Prohibited Use and Restrictions) and 10 (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 and subject to the exceptions set out in Clause 6(d) and Clause 11(c)(iii), 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 Support;
 - (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), 6 (Intellectual Property Rights), 7 (Confidentiality), 8 (Client's Obligations), 9 (Prohibited Use and Restrictions), 10 (Unauthorized Use or Distribution), 12 (Disclaimer), 13 (Limitation of Liability), 14 (Revocable Publicity Rights), 18 (Governing Law and Jurisdiction) and 20 (General Conditions) shall survive termination of this Agreement for any reason.

17. FORCE MAJEURE

Neither Party shall be deemed in default or otherwise be liable under this Agreement (except for payments due) as a result of 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.

18. 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. 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 any mediation or arbitration proceedings shall be Geneva, Switzerland. The language to be used in any mediation or arbitration proceedings shall be English.

19. 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 19 shall also apply to any Evaluations under Section 3.

20. 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 these terms and conditions should be modified or changed, any changes or modifications will be posted on Company's Website at https://www.sonarsource.com/docs/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 November 8, 2017 and replace all previous versions as of that date.