TERMS AND CONDITIONS

BITEGARDEN SOLUTIONS SL
C/ Grabador Esteve 15
46004 Valencia (Spain)

BITEGARDEN SOLUTIONS, SL ("Company") is a Spanish company, based in Valencia, Spain, providing products related to continuous inspection code quality**.**

bitegarden® is a registered trademark ("Trademark") under BITEGARDEN SOLUTIONS, providing software products known as plugins for *SonarQube* platform.

There are products that operate on an open source quality management platform called *SonarQube*, which is available online at http://www.sonarsource.org under a GNU Lesser GPL License, (Version 3).

Please note that by entering into an agreement with "Company", or downloading any bitegarden software, you ("Client") agree that you are conducting this transaction in Spain and that the following terms and conditions shall apply:

1. DEFINITIONS

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

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.

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.

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 acting on Client's behalf.

4. **"Authorized Use"** means the installation and operation of a Product for each SonarQube Instance for which a License has been obtained.

5. **"Authorized Contact"** means the point of contact (person or group of people) designated by Client to contact Company for requests for Services.

6. **"Client"** means the individual or entity that has purchased Products under the terms and conditions of this Agreement.

7. **"Commencement Date"** means the date on which Client receives an Activation Key (which is not for an Evaluation) by e-mail from Company to activate and begin using a purchased Product.

8. **"Company"** means BITEGARDEN SOLUTIONS S.L, the Spanish company located at the address provided above, registered in Valencia, Spain.

9. **"Due Date"** means the date by which payment for a Product must be received in full, which shall be within thirty (30) days of Company's issuance of the invoice for that Product or Service.

10. **"Effective Date"** means the date on which this Agreement entered into effect, which is usually the Commencement Date for Products (unless otherwise specified in writing).

11. **"Evaluation"** means a trial use for a Product before it is purchased by a Client.

12. **"Evaluation Period"** means fifteen (15) calendar days during which Client may request, via e-mail, a free temporary Activation Key to evaluate a Product.

13. **"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:

    a. 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;

    b. any application or right to apply for registration of any of these rights;

    c. any registration of any of those rights or any registration of any application referred to in paragraph (ii) above; and

    d. all renewals and extensions of these rights.

14. "**License**" means the license to use a Product for a specific SonarQube Instance 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.

15. "**Product**" means any piece of Company-approved closed-source software (which is essentially SonarQube plugins) that enhances or modifies a SonarQube instance or any other SonarSource product, which is provided by Company and is listed on Company's website at https://www.bitegarden.com/. Client accepts that Products are not derivative works. They are installed on top of a SonarQue Platform, and each Product is in fact a separate piece of software 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.

16. "**SonarQube Platform**" means the non-commercial, open-source code quality management software platform that is freely available at http://www.sonarsource.org, including all past, present or future versions of that software platform.

17. "**SonarQube Instance**" means each installation of a SonarQube Platform.

2. PRODUCTS

a) Company provides Products that enhance the SonarQube Platform. Company's Products are available via the purchase of a License and an Activation Key.

b) The types of Products available from Company and their features are fully described at https://www.bitegarden.com/. The following Services come free of charge with the purchase of a License:

    I. Upgrades: meaning that if Company creates a new version, bug fix, release or update to the Product, 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 bugs (or faults) in any Product reported by Client within a reasonable time frame, to be determined by Company, based on the gravity of the bug (of fault); and

    III. Support for the Product: meaning that Company will provide e-mail responses to all enquiries from Client related to the Product within twenty-four (24) business hours of having received and read that enquiry.

    IV.

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 fifteen (15) calendar 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 honor 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 8 (Client's Obligations) and 9 (Prohibited Uses and Restrictions) below.

4. PAYMENT

a) Following a download or submission of an order for a Product, Company shall e-mail Client a pro forma invoice confirming the order and specifying the Product purchased by the Client. The e-mail shall be sent to the address provided by Client for such purposes. Requests may take up to thirty (30) days to process.

b) In consideration for obtaining the Product requested by Client, Client shall pay Company the full corresponding price (plus any applicable VAT or sales tax) for that Product by wire transfer to the account provided on the invoice or via PayPal by the Due Date.

c) If the invoice is not fully settled by the Due Date, Company may, at its sole discretion, deactivate any Activation Key and terminate this Agreement without prior notice.

d) Once payment is received, Company shall deliver an Activation Key to Client via e-mail, the delivery of which shall trigger the Effective Date of this Agreement. No Product will be activated until payment is received in full.

e) 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.

f) Company reserves the right to change the pricing structure for its Products and in such an event shall provide thirty (30) days prior written notice to Client.

5. COMPANY RIGHTS AND OBLIGATIONS

a) Upon receipt of payment from the Client,

    i. Company will supply the Client with the activation key via e-mail, and

    ii. Provide Maintenance, upgrades and support as defined in Clause 2.

b) Company 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.

c) Services are provided exclusively via e-mail. No Services are provided by telephone, fax, VOIP or on the physical premises of Client's place of business or private home.

6. INTELLECTUAL PROPERTY RIGHTS

a) Company is the sole and exclusive owner of all the Intellectual Property Rights relating to any Products or Services or any work product generated by Company pursuant to any Services, and/or has the rights to commercialize the Products and Services provided under this Agreement in or from Spain, as well as those rights directly or indirectly necessary therefor. No rights or warranties are provided to any of these Intellectual Property rights, save as are covered by the License to use any Products or Services that are provided for by this Agreement

b) Company hereby grants the Client a worldwide, non-exclusive, non-transferable, non-sub licensable 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 the term of that License, unless it is renewed

c) The Client undertakes to comply with Company's Intellectual Property Rights and to ensure compliance with them by its employees for an unlimited period including after termination of this Agreement.

d) All Products are provided on an "AS IS" basis. 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. Client shall be solely responsible for any such occurrence and Company expressly disclaims any responsibility or liability in such cases.

7. 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 Spanish 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 clauses 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.

8. THE CLIENT'S OBLIGATIONS

a) The Client must at all times:

    I. Ensure that only an Authorized User may use the Product in accordance with the terms and conditions of this agreement.

    II. Advise Company in writing within thirty (30) calendar days if the Client becomes aware of any unauthorized use or distribution of the Product by any person.

    III. Verify and take sole responsibility for ensuring that the version of any Product they are using or intend to use is compatible with the version of SonarQube they are using or intend to use, and

    IV. Only use an unmodified version of a SonarQube Platform that was downloaded from de Sonar Web site

b) Client is not authorized to operate any Product on any SonarQube Instance where the core platform 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 Section 10 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, 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 SonarQube Instance

c) Client is solely responsible for its own use of any Products and Services and for verifying the absence of any viruses, spyware or malicious programming

d) In both cases: product evaluation and product purchase, the client authorizes bitegarden to add its e-mail address, used in the download process, into bitegarden's customers database in order to keep the Client informed about new versions and products.

9. PROHIBITED USES AND RESTRICTIONS

a) Company Products may be used for lawful purposes only and Client shall only use any Products in accordance with all local and international applicable laws or regulations that may apply in Client's jurisdiction and under Spanish law. Transmission, storage, or distribution of any information, data, or material in violation of any such applicable law or regulation 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 Products;

    II. Sell, 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 have or a material or adverse effect on Company's interests.

10. 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, distribute or cause the distribution of any Product to any third party other than an for Authorized Use or use any Product or Service on any SonarQube Instance other than the SonarQube Instance for which it was originally purchased (in which case separate Products or Services should be bought for those other SonarQube Instances);

    II. Shall prohibit, by appropriate measures, any unauthorized access to or use of the Product on any other SonarQube Instances than the one for which the License was obtained; and

    III. 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 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 or Services for each SonarQube Instance.

11. REPRESENTATIONS AND WARRANTIES

a) Company represents and warrants to the best of its knowledge and belief 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 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. Permits 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 to Client under this Agreement;

II. It is authorized to sell or perform, as the case may be, the Product;

III. All Services provided by Company will be performed in a professional manner by qualified personnel; and

IV. No Product infringes, misappropriates or violates any copyrights or trade secrets of any third party.

12. DISCLAIMER

a) Save as may be expressly provided otherwise in this Agreement, all Products 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, merchantability or fitness for any particular purpose. Company hereby expressly excludes any such warranties or representations or implications that the Product will be error-free, complete, or operate correctly with any given product or system of Client

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

c) Company makes no guarantee as to the availability of its Products 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 or Services, or any network or system outages, file corruptions, or for any other alleged consequences of having used any Products or Services.

13. INFRINGEMENT INDEMNIFICATION

a) Client will indemnify and hold Company harmless from and against any claims brought by third parties arising out of Client's use of Company's Products other than as permitted under this Agreement, including but not limited to claims as described in Section 11 (Representations and Warranties).

b) Client will defend or settle, at its expense, any action brought against Company based upon the claim that any unauthorized modifications to the Product, or unauthorized combination of the Product with third party or Client's own products, infringes or violates any third party right; provided, however, that: (i) Company shall notify Client promptly in writing of any such claim; (ii) Company shall not enter into

any settlement or compromise any such claim without Client's prior written consent; (iii) Client shall have the opportunity to control any such action and settlement negotiations; and (iv) Company shall provide Client with information and assistance, at Client's request and expense, necessary to settle or defend such claim. Client agrees to pay all damages and costs finally awarded against Company attributable to such claim.

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

d) In the event of a claim relating to any actual or alleged infringement, violation or misappropriation of the copyrights of any third party, Company will use its reasonable best efforts, at its option and discretion, within ninety (90) days, to replace or modify the Product so that it is no longer infringing any third party's copyrights.

14. LIMITATION OF LIABILITY

a) Save as aforementioned, Company will not be liable to any person for any loss, damage, cost, expense or other claim (including consequential, direct, indirect, special, punitive or other damages or loss of data or profits) resulting from or relating to any Product or Service, including, without limitation:

I. Any use or reliance on a Product by a person (including the form and content of any errors in and/or omissions from any information contained in a Product);

II. Any delay, interruption or other failure in the provision of a Product; or

III. Any change in the form or content of a Product.

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 Spanish law.

d) To the extent the foregoing liability limitations are not allowed by Spanish 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 or Service; or

II. The refund of any amounts paid by Client for such defective Product or Service.

15. PUBLICITY RIGHTS

a) Client grants Company the right to include Client's name and/or logo in a list of customers, which may be publicly displayed on Company's website and in promotional materials for Products or Services.

b) Client may request to be excluded from appearing in Company's public list of clients or promotional material at any time by submitting a written request via e-mail to: bitegarden@gmail.com

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 the Client's consent.

b) The Client shall notify Company 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. Company 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. The terms of this agreement shall survive assignment.

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. Client may renew this Agreement by ordering a new Product or Service prior to or on the expiration date for that 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.

c) Company may terminate this Agreement unilaterally at any time without prior notice if Client commits a material breach. Failure to fulfill the obligations of Sections 4 (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, amounts paid by Client will not be refunded and Company shall reserve the right to bring claims for damages. Company reserves the right 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 cease using the Product or Service, destroy any corresponding activation keys and provide Company with written confirmation of such destruction within fifteen (15) days from the date of termination.

d) Clauses 4 (Payment), 6 (Intellectual Property Rights), 7 (Confidentiality), 8 (Client's Obligations), 9 (Prohibited Use and Restrictions) and 10 (Unauthorized Use or Distribution), 12 (Disclaimer), 13 (Indemnification), 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, 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 Spanish law only. Any dispute in relation to this Agreement shall be settled by the ordinary courts of Spain.

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 e-mail, 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 e-mail, post or phone either before or after the order is placed, nor after payment has been received by Company from the Client for any 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 Company 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.

21. GENERAL CONDITIONS

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

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

If the terms and conditions put forth herein should be modified or changed, any changes or modifications will be posted on the site https://www.bitegarden.com. Please check back periodically.

These terms and conditions were last updated on the 1st of October 2019.