



TSQL SONARQUBE ANALYSIS PLUGIN

Terms and Conditions

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2 INTRODUCTION

TechCognia (“Company”) is an Indian company, based in Mumbai, India that is the creator and developer of the tools and plugins created as the TechCognia Products some of which are available for free of charge online at www.techcognia.com. Company also provides closed source plugins, tools, support and services in various technologies, which are sold under the brand name TechCognia and subject to matter of this document. These terms and conditions only apply to TechCognia closed source plugins, support and services. Please note that by entering into an agreement with Company, or download any TechCognia closed source software, you (“Client”) agree that you are conducting this transaction in India and that the following terms and conditions shall apply.

3 DEFINITIONS

- **“TechCognia”** means TechCognia Pvt Ltd.
- **“Client”** means the individual or entity (inclusive of subsidiaries) that has licensed TechCognia’s TSQL SonarQube Analysis Plugin under the terms and conditions of this agreement.
- **“Plugin”** means TechCognia’s TSQL SonarQube Analysis Plugin (Commercial version).
- **“Licensed Plugin”** means TechCognia’s TSQL SonarQube Analysis Plugin binary distribution with a license valid for one (and only one) Sonar instance identified by a Sonar Server ID.
- **“Agreement”** means the terms and conditions put forth herein.
- **“Authorized User”** means the point of contact (person or group of people) designated by the Client to contact TechCognia for support request.
- **“Commencement Date”** means the date on which this agreement takes effect; This Agreement becomes effective on the date the Client receives the Licensed Plugin by email from TechCognia.
- **“Evaluation Period”** means the period of fourteen (14) calendar days, for which the Client may request, via email, a free temporary key to activate and evaluate a Plugin.

4 PRODUCT

TechCognia’s TSQL SonarQube Analysis Plugin is a plugin for Sonar application. Included in the purchase of a Licensed Plugin are free (i) Upgrades, meaning that if TechCognia creates a new version of the Plugin, the Client is entitled to use it throughout the Term of this agreement; (ii) Maintenance, meaning that TechCognia 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 TechCognia, based on the gravity of the bug; and (iii) Support for Licensed Plugin, meaning that TechCognia will provide email responses to all inquiries from the Client related to the Plugin within 72 business hours.

5 PAYMENT

- a) Once payment is received through PayPal for a Plugin purchase, TechCognia delivers the Licensed Plugin to the Client via email, the deliverance of which shall be recognized as the “Commencement Date”.

- b) No Product received from any source other than an official and validated TechCognia email account, nor any “Commencement Date” related to such a Product, will be considered valid or protected under the terms of this agreement.
- c) TechCognia reserves the right to change the pricing for Licensed Plugin.

6 TECHCOGNIA RIGHTS AND OBLIGATIONS

- a) Upon receipt of payment from the Client, (i) TechCognia will supply the Client with the Licensed Plugin via email, and (ii) provide Maintenance, upgrades and support as defined in Clause 2.
- b) TechCognia 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.

7 INTELLECTUAL PROPERTY RIGHTS

- a) TechCognia is the sole and exclusive owner of all the Intellectual Property Rights relating to TechCognia’s TSQL SonarQube Analysis Plugin as well as those rights directly or indirectly connected with those.
- b) TechCognia hereby grants the Client a worldwide, non-exclusive, non-transferable, non-sub licensable license on Licensed Plugin.
- c) The Client undertakes to comply with TechCognia’s Intellectual Property Rights and to ensure compliance with them by its employees for an unlimited period including 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 in accordance with the terms and conditions of this agreement.
- b) Advise TechCognia 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.

9 PROHIBITED USES AND RESTRICTIONS

- a) Licensed Plugin 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 TechCognia, 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 Licensed Plugin; (ii) sell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or

from any electronic medium or machine readable form the Licensed Plugin, in whole or in part; (iv) publish, promote, broadcast, circulate or refer publicly to the TechCognia name, trade name, trademark, service mark or logo, without the prior written consent of TechCognia; and (v) commit any malicious act or omission the likely result of which is that TechCognia 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 TechCognia interests.

10 UNAUTHORIZED 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 Licensed Plugin to any third party other than an Authorized User; and (b) is required to report discovery of any such violations to TechCognia in writing within thirty (30) calendar days.

Any of the aforementioned violations will entitle TechCognia to, in addition to any other right or claim that TechCognia 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 TechCognia charges for the Licensed Plugin.

11 REPRESENTATIONS AND WARRANTIES

- a) TechCognia represents and warrants that the Licensed Plugin 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 Licensed Plugin or any of the Client's software, firmware, hardware, computer systems or networks, such devices sometimes referred to as "viruses" or "worms".
- b) TechCognia 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 Licensed Plugin; (iii) all services provided by TechCognia will be performed in a professional manner by qualified personnel; (iv) the Licensed Plugin does not infringe, misappropriate or violate any patent, copyright, trademark, trade secret or other Intellectual Property Right of any third party.

12 DISCLAIMER

- a) Save as provided in Clauses 10, 13 and 14, the Licensed Plugin 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 TechCognia does not warranty that the Licensed Plugin will be error-free, complete, or correct.
- b) TechCognia does not warrant that its services are error-free or that they will operate without interruption, nor does TechCognia make any warranty with respect to the quality, reliability, timeliness or security of its services.

- c) TechCognia 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 TechCognia from and against any claims, losses, liabilities, expenses, damages and settlement amounts incurred by TechCognia from the breach of this Agreement by the Client. The Client will also indemnify and hold TechCognia harmless from and against any claims brought by third parties arising out of the Client use of TechCognia services.
- b) The Client will defend or settle, at its expense, any action brought against TechCognia based upon the claim that any modifications to the Licensed Plugin or combination of the Licensed Plugin with products infringes or violates any third party right; provided, however, that:
 - a. TechCognia shall notify the Client promptly in writing of any such claim;
 - b. TechCognia shall not enter into any settlement or compromise any such claim without the Client's prior written consent;
 - c. The Client shall have sole control of any such action and settlement negotiations; and
 - d. TechCognia 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 TechCognia attributable to such claim.
- c) TechCognia 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 Licensed Plugin or combination of the Licensed Plugin with other products.
- d) TechCognia 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 TechCognia's Licensed Plugin; provided, however, that:
 - a. The Client shall notify TechCognia promptly in writing of any such claim
 - b. The Client shall not enter into any settlement or compromise any such claim without TechCognia's prior written consent
 - c. TechCognia shall have sole control of any such action and settlement negotiations; and
 - d. The Client shall provide TechCognia with information and assistance, at TechCognia request and expense, necessary to settle or defend such claim. TechCognia 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, TechCognia will, at its option and discretion, within twenty (20) days, replace or modify the Licensed Plugin 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 5, 6, 8, 9 and 11, 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 Licensed Plugin including, without limitation: (a) any use or reliance on a Licensed Plugin 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 Licensed Plugin; or (c) any change in the form or content of the Licensed Plugin. In no event will TechCognia'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 5, 6, 8, 9 and 11, 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 TechCognia's, and the remedy of the Client, shall be limited to the re-supply of any defective Licensed Plugin.

15 ASSIGNMENT

- a) TechCognia 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 TechCognia 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 15(b), the succeeding party is a supplier to a government agency, (i) TechCognia 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.

16 DURATION AND TERMINATION

- a) The "Term" of this Agreement for the purchase of a Licensed Plugin means the one (1) year period beginning on Commencement date. The Client may renew this Agreement by ordering a new Licensed Plugin.
- b) TechCognia 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 TechCognia. In the event of termination by mutual agreement, the parties undertake not to assert any claims against each other.

- c) TechCognia 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 8, 9, and 11 will be considered a material breach and may, at the sole discretion of TechCognia, 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 TechCognia shall reserve the right to bring claims for damages. TechCognia reserves the right to deactivate the Client's account and delete any records relating to the account.
- d) Clauses 3, 5, 6, 6(b), 9, 11, 12, 13, 14 and 18 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 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.

18 GOVERNING LAWS AND JURISDICTIONS

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

19 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 TechCognia from the Client for Licensed Plugin.

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 TechCognia 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.

20 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.techcognia.com>. Please check back periodically.

These terms and conditions were last updated on the 10th Sept, 2014.

21 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, TechCognia, 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 TechCognia is pleased to offer its Clients a free "Evaluation Period", during such time TechCognia 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 4, 5, 6, 7(b), 11, 13, 14, 15, and 16 of this Agreement are not applicable or enforceable; (ii) Clauses 3, 7(a), 7(c), 8, 9, 10, 12, 17, 18, 19 and 20 are applicable and enforceable.