

End User License Agreement for Progress DevCraft Complete

(Last Updated January 1, 2019)

IMPORTANT – PLEASE READ THIS END USER LICENSE AGREEMENT (THE “AGREEMENT”) CAREFULLY BEFORE ATTEMPTING TO DOWNLOAD OR USE ANY SOFTWARE, DOCUMENTATION, OR OTHER MATERIALS MADE AVAILABLE THROUGH THIS WEB SITE (Telerik.com). THIS AGREEMENT CONSTITUTES A LEGALLY BINDING AGREEMENT BETWEEN YOU OR THE COMPANY WHICH YOU REPRESENT AND ARE AUTHORIZED TO BIND (the “Licensee” or “You”), AND PROGRESS SOFTWARE CORPORATION (“Progress” or “Licensor”). PLEASE CHECK THE “I HAVE READ AND AGREE TO THE LICENSE AGREEMENT” BOX AT THE BOTTOM OF THIS AGREEMENT IF YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. BY CHECKING THE “I HAVE READ AND AGREE TO THE LICENSE AGREEMENT” BOX AND/OR BY PURCHASING, DOWNLOADING, INSTALLING OR OTHERWISE USING THE SOFTWARE MADE AVAILABLE BY PROGRESS THROUGH THIS WEB SITE, YOU ACKNOWLEDGE (1) THAT YOU HAVE READ THIS AGREEMENT, (2) THAT YOU UNDERSTAND IT, (3) THAT YOU AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS, AND (4) TO THE EXTENT YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY, YOU HAVE THE POWER AND AUTHORITY TO BIND THAT COMPANY.

Content Management System, .NET, PHP, Java and/or JavaScript component vendors are not allowed to use the Software (as defined below) without the express permission of Progress. If You or the company You represent is a Content Management System, .NET, PHP, Java or JavaScript component vendor, You may not purchase a license for or use the Software unless You contact Progress directly and obtain permission.

This License does not grant You a license or any rights to the “2007 Microsoft Office System User Interface” and You must contact Microsoft directly to obtain such a license. Any and all rights in the Software not expressly granted to You as part of the License hereunder are reserved in all respects by Progress.

This is a license agreement and not an agreement for sale.

Progress DevCraft Complete is a suite of products containing the following Progress products: Progress Telerik UI for ASP.NET AJAX, Progress Telerik UI for WinForms, Progress Telerik UI for UWP, Progress Telerik UI for Silverlight, Progress Telerik UI for WPF, Progress Telerik UI for Xamarin, Progress Kendo UI, Progress Telerik UI for ASP.NET MVC, Progress Telerik UI for ASP.NET Core, Progress Telerik Reporting, Progress Telerik Report Designer, and Progress Telerik JustMock. The following optional products are also available as part of Progress DevCraft Complete: Progress Telerik UI for JSP and Progress Telerik UI for PHP.

Article I of this Agreement contains defined terms.

Article II of this Agreement governs the licensing of Progress Telerik UI for ASP.NET AJAX, Progress Telerik UI for WinForms, Progress Telerik UI for UWP, Progress Telerik UI

for Silverlight, Progress Telerik UI for WPF, Progress Telerik UI for Xamarin, Progress Kendo UI, Progress Telerik UI for ASP.NET MVC, Progress Telerik UI for ASP.NET Core, Progress Telerik Reporting, Progress Telerik Report Designer, Progress Telerik UI for JSP (if applicable), and Progress Telerik UI for PHP (if applicable) .

Article III of this Agreement governs the licensing of Progress Telerik JustMock.

Article IV of this Agreement contains the General Terms.

I. CERTAIN DEFINITIONS

“Authorized End Users” means Your own end-user licensees, each of whom is authorized to use the Progress Package Software solely as part of Your Integrated Product pursuant to an end-user license that meets the requirements of this Agreement.

“Integrated Products” means bundled software solutions developed by You in which the Progress Package Software is integrated. “Integrated Products” as defined herein, are limited to those software solutions which: (i) are developed by Your Licensed Developers; (ii) add substantial functionality beyond the functionality provided by the incorporated components of the Software; and (iii) are not commercial alternatives for, or competitive in the marketplace with, the Software or any components of the Software.

“JustProducts Documentation” means any generally available customer documentation accompanying the JustProducts Programs.

“JustProducts Programs” means the Progress computer software identified as Progress Telerik JustMock and any updates, upgrades, modifications and error corrections thereto provided to Licensee.

“JustProducts Software” means the JustProducts Programs and the JustProducts Documentation collectively.

“Kendo UI Documentation” means any generally available customer documentation accompanying the Kendo UI Programs.

“Kendo UI Programs” means the Progress computer software identified as Progress Kendo UI, Progress Telerik UI for ASP.NET MVC, Progress Telerik UI for ASP.NET Core and any updates, upgrades, modifications and error corrections thereto provided to Licensee. If You have purchased a license to Progress Telerik UI for JSP as part of Progress DevCraft Complete, the term “Kendo UI Programs” shall also include Progress Telerik UI for JSP and any updates, upgrades, modifications and error corrections thereto provided to Licensee. If You have purchased a license to Progress Telerik UI for PHP as part of Progress DevCraft Complete, the term “Kendo UI Programs” shall also include Progress Telerik UI for PHP and any updates, upgrades, modifications and error corrections thereto provided to Licensee.

“Kendo UI Software” means the Kendo UI Programs and the Kendo UI Documentation.

“Licensed Developer” means one of Your employees or third-party consultants authorized to develop software specifically for You using the Software in accordance with this Agreement.

“Report Designer Documentation” means any generally available customer documentation accompanying the Report Designer Programs.

“Report Designer Program” means the Progress computer software identified as Progress Telerik Report Designer and any updates, upgrades, modifications and error corrections thereto provided to Licensee.

“Report Designer Software” means the Report Designer Programs and Report Designer Documentation collectively.

“Software” means the Progress Package Software and the JustProducts Software.

“Subscription Period” means the applicable period of one (1), two (2), or three (3) years from the date on which You purchase the license for the Software, for which You have purchased updates and support.

“Progress Package Documentation” means any generally available customer documentation accompanying the Progress Package Programs.

“Progress Package Programs” means the Progress computer software identified as Progress Telerik UI for ASP.NET AJAX, Progress Telerik UI for WinForms, Progress Telerik UI for UWP, Progress Telerik UI for Silverlight, Progress Telerik UI for WPF, Progress Telerik Reporting, Progress Telerik Report Designer, Progress Telerik UI for Xamarin, Kendo UI Programs, and any updates, upgrades, modifications and error corrections thereto provided to Licensee.

“Progress Package Software” means the Progress Package Programs and the Progress Package Documentation collectively.

“Telerik Reporting Software” means the Progress computer software identified as Progress Telerik Reporting and any updates, upgrades, modifications and error corrections thereto provided to Licensee.

“Progress Standard Programs” means the Progress Package Programs, excluding the Kendo UI Programs and the Report Designer Program.

“Progress Standard Software” means the Progress Package Software, excluding the Kendo UI Software and the Report Designer Software.

II. PROGRESS PACKAGE SOFTWARE

Subject to the terms of this Agreement, Progress hereby grants to You the following limited, non-transferable, perpetual, worldwide, royalty-free, non-exclusive licenses to use the Progress Package Software solely as specified in this Agreement Any and all rights in the Progress Package Software not expressly granted to You hereunder are reserved in all respects by Progress. Except as expressly granted in this Agreement, You are not licensed to use, copy, modify, or distribute copies of all or any portion of the Progress Package Software.

1. Development License Grants for Progress Standard Software and Kendo UI Software

1.1 Progress Standard Software Developer License Grant. Subject to the terms and conditions set forth in this Agreement, Your Licensed Developers may use the Progress Standard Software in object code form and source code form (if provided) in accordance with Section 5.3 only in the development of Your Integrated Products.

1.2 Kendo UI Software Development License Grant. Subject to the terms and conditions set forth in this Agreement, Your Licensed Developers may use the Kendo UI Software in minified form and source code form (if provided) in accordance with Section 5.3 only in the development of Your Integrated Products.

1.3 Progress Standard Software and Kendo UI Software Scope of Use. Your number of Licensed Developers must correspond to the maximum number of seats You have purchased from Progress hereunder. This means that, at any given time, the number of Licensed Developers cannot exceed the number of seats that You have purchased from Progress and for which You have paid Progress all applicable license fees pursuant to this Agreement. The Progress Standard Software and Kendo UI Software are in “use” on a computer when it is loaded into temporary memory (i.e. RAM) or installed into permanent memory (e.g. hard disk or other storage device). Your Licensed Developers may install the Progress Standard Software and Kendo UI Software on multiple machines, so long as it is not being used simultaneously for development purposes at any given time by more Licensed Developers than You have seats.

2. Test and Build License Grants for Progress Standard Software and Kendo UI Software

You may also use the Progress Standard Software and the Kendo UI Software in the testing and building of Your Integrated Products. This license is not limited to a number of seats.

3. Report Designer License

Subject to the terms and conditions set forth in this Agreement, You may use and distribute the Report Designer Software in object code form only to any Authorized End User solely in conjunction with the Progress Reporting Software.

3.1 Scope of Use. The Report Designer Program may only be used in conjunction with the Progress Reporting Software.

4. Redistribution

4.1 License for Redistribution. You may distribute (i) the Progress Standard Programs in object code form only as embedded in Your Integrated Products, (ii) the Kendo UI Programs in minified form only as embedded in Your Integrated Products, and (iii) the Report Designer Program in object code form for use solely in conjunction with Your Integrated Products, to Your Authorized End Users only pursuant to an end-user license that meets the requirements of this Section. You are not permitted to distribute the Progress Package Programs pursuant to this Section: as a standalone product; or as a part of any product other than Your Integrated Product. Your end-user license agreement must: impose the limitations set forth in this paragraph on Your Authorized End Users; prohibit distribution of the Progress Package Programs by Your Authorized End-Users; limit the liability of Your licensors or suppliers to the maximum extent permitted by applicable law; and prohibit any attempt to disassemble the code, or attempt in any manner to reconstruct, discover, reuse or modify any source code or underlying

algorithms of the Progress Package Programs, except to the limited extent as is permitted by law notwithstanding contractual prohibition. Notwithstanding the foregoing, You may distribute Your Integrated Product to Your employees without an end user license agreement, however, you are solely liable and responsible for such employees' compliance with the end user license requirements set forth in this section. For avoidance of doubt, Your Authorized End Users are not permitted to use the Progress Package Programs, or any portions thereof, for software development or application development purposes unless they also purchase a separate commercial license from Progress for each of the users.

4.2 License Limitations

4.2.1 You may not use the Progress product names, logos or trademarks to market Your Integrated Product.

4.2.2 You must ensure that the Progress Package Software is not distributed in any form that allows it to be reused by any application other than Your Integrated Product. In addition to the distribution limitations herein, You agree to comply with the technical guidelines provided at: <http://www.telerik.com/purchase/license-agreement/assembly-protection-guidelines.aspx>. Please contact support@telerik.com for any additional questions.

4.2.3 You may not distribute the Report Designer Software independently, either as a separate product or as the sole Progress product associated with Your Integrated Product (i.e. without the Progress Reporting Software).

4.2.4 You must include a valid copyright message in Your Integrated Products in a location viewable by Authorized End-Users (e.g. "About" box) that will serve to protect Progress' copyright and other intellectual property rights in the Software.

4.2.5 Limited Use and Distribution of ODBC drivers. ODBC drivers, if any, included as part of the Progress Reporting Software hereunder may be used for the sole purpose of enabling connectivity between the Progress Reporting Software (as embedded within Your Integrated Product) and certain data sources. Progress grants you a limited right to distribute the ODBC drivers in machine-readable form to Your Authorized End Users only as embedded in Your Integrated Products and in accordance with the requirements set forth in this Section 4. In addition to the requirements related to the redistribution of Software set forth in this Section 4, any and all distributions of the ODBC Drivers must also be accompanied by the NOTICES.TXT file specific to such ODBC driver(s) which was provided to You by Progress at the time You received such ODBC driver(s).

5. Support, Updates and Source Code for Progress Package Software

During the Subscription Period, You are entitled to updates for the Progress Package Software, access to certain source code for the Progress Package Software (excluding the Report Designer Software), and the Priority support package, each as described in further detail below.

5.1 DevCraft Complete Support Package. You are entitled to the "Priority" support package for the Progress Package Software as described in greater detail here: <http://www.telerik.com/purchase/support-plans/devtools>, subject to the limitations and restrictions described in the following Fair Usage Policy.

5.1.1 Support Package Fair Usage Policy. Progress may limit or terminate Your access to any or all of the support services available under the applicable Progress Package Software if Your use of the support services is determined by Progress, in its sole and reasonable discretion, to be excessive.

5.1.2 In no event will Progress provide support of any kind to end-users of Your Integrated Products.

5.2 Progress Package Software Updates. During the Subscription Period, You are eligible to receive:

(i) all updates for the version of the Progress Package Software that You license hereunder; and

(ii) full source code for Progress Telerik UI for ASP.NET AJAX, Progress Telerik UI for WinForms, Progress Telerik UI for Silverlight, Progress Telerik UI for WPF, certain Kendo UI Programs and certain source code for Progress Telerik Reporting.

You may use the resulting updated Progress Package Software only in accordance with the terms of this Agreement. Subscription renewals will be governed by the terms of this Agreement.

5.3 Source Code for the Progress Package Software. The Progress Package Software's source code is provided to You so that You can create modifications under the terms of this Agreement.

5.3.1 While Progress does not claim any ownership rights in Your Integrated Products, any modifications You develop to the Software source code will be the exclusive property of Progress, and You agree to and hereby do assign all right, title and interest in and to such modifications and all rights associated therewith to Progress.

5.3.2 You will be entitled to use modifications of the Progress Package Software's source code developed by You under the terms of this Agreement and Progress hereby grants You a license to use such modifications pursuant to Section 1.

5.3.3 You acknowledge that, except as otherwise provided for in this Agreement, the Progress Package Software's source code is confidential and contains valuable and proprietary trade secrets of Progress. **Except as otherwise provided in this Agreement, under no circumstances may any portion of the Progress Package Software's source code or any modified version of the source code be distributed, disclosed or otherwise made available to any third party.**

5.3.4 Progress DOES NOT provide technical support for any source code that has been modified by any party other than Progress.

5.3.5 The Progress Package Software's source code is provided "as is", without warranty of any kind. Refunds are not available for any licenses that include a right to receive source code.

III. JUSTPRODUCTS SOFTWARE

Subject to the terms of this Agreement, Progress hereby grants to You the following

limited, non-transferable, perpetual, worldwide, royalty-free, non-exclusive licenses to use the JustProducts Software solely as specified in this Agreement. Any and all rights in the JustProducts Software not expressly granted to You herein are reserved in all respects by Progress. Except as expressly granted in this Agreement, You are not licensed to use, copy, modify, or distribute copies of all or any portion of the JustProducts Software.

1. JustProducts Developer License Grant. Subject to the terms of this Agreement, Your Licensed Developers may install and use the JustProducts Software in object code form only.

1.1 JustProducts Scope of Use. Your number of Licensed Developers must correspond to the maximum number of seats You have purchased from Progress hereunder. This means that, at any given time, the number of Licensed Developers cannot exceed the number of seats that You have purchased from Progress and for which You have paid Progress all applicable license fees pursuant to this Agreement. The JustProducts Software is in “use” on a computer when it is loaded into temporary memory (i.e. RAM) or installed into permanent memory (e.g. hard disk or other storage device). Your Licensed Developers may install the JustProducts Software on multiple machines, so long as the JustProducts Software is not being used simultaneously for development purposes at any given time by more Licensed Developers than You have seats.

1.2 License Limitations

1.2.1 You may not redistribute, resell, transfer, rent, lease, or sublicense the JustProducts Software.

1.2.2 Except to the limited extent as is permitted by law notwithstanding contractual prohibition, You are not allowed to disassemble, decompile or “unlock”, decode or otherwise reverse translate or engineer, or attempt in any manner to reconstruct or discover any source code or underlying algorithms of Software that is provided to You in object code form only.

2. Support and Updates for the JustProducts Software

During the Subscription Period, You are entitled to updates for the JustProducts Software, as well as the support package, each as described in further detail below.

2.1 Support Package. You are entitled to the “Priority” support package as described in greater detail here: <http://www.telerik.com/purchase/support-plans/devtools>, subject to the limitations and restrictions described in the following Fair Usage Policy.

2.2 Support Package Fair Usage Policy. Progress may limit or terminate Your access to any or all of the support services available under the applicable Progress Package Software if Your use of the support services is determined by Progress, in its sole and reasonable discretion, to be excessive.

2.3 JustProducts Software Updates. You are eligible to receive all updates for the version of the JustProducts Software that You license hereunder. Updates replace and/or supplement (and may disable) the version of the JustProducts Software that formed the basis for Your eligibility for the update. You may use the resulting updated JustProducts Software only in accordance with the terms of this Agreement. Subscription renewals will be governed by the terms of this Agreement.

IV. GENERAL TERMS

1. Delivery

Progress shall make available for download to Licensee a master copy of the Software licensed hereunder.

2. Term and Termination

This Agreement and the License granted hereunder shall continue until terminated in accordance with this Section. Unless otherwise specified in this Agreement, the License granted hereunder shall last as long as You use the Software in compliance with the terms herein. Unless otherwise prohibited by law, and without prejudice to Progress' other rights or remedies, Progress shall have the right to terminate this Agreement and the License granted hereunder immediately if You breach any of the material terms of this Agreement, and You fail to cure such material breach within thirty (30) days of receipt of notice from Progress. Upon termination of this Agreement, all Licenses granted to You hereunder shall terminate automatically and You shall immediately cease use and distribution of the Software; provided, however, that any sublicenses granted to Your Authorized End-Users in accordance with Article II, Section 4 shall survive such termination if such Authorized End-Users are in compliance with their license agreements with You. You must also destroy all copies of the Software not integrated into a live, functioning instance(s) of Your Integrated Product(s) already installed, implemented and deployed for Your Authorized End-User(s).

3. Product Discontinuance

Progress reserves the right to discontinue the Software or any component of the Software, whether offered as a standalone product, a bundled set of products, or solely as a component, at any time. However, Progress is obligated to provide support in accordance with the terms set forth in this Agreement for all such discontinued Software, bundle, or components for a period of one year after the date of discontinuance.

4. Intellectual Property

All title and ownership rights in and to the Software (including, but not limited to, any images, photographs, animations, video, audio, music, or text embedded in the Software), the intellectual property embodied in the Software, and any trademarks or service marks of Progress (and/or its licensors) that are used in connection with the Software are and shall at all times remain exclusively owned by Progress and its licensors. All title and intellectual property rights in and to the content that may be accessed through use of the Software is the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement grants You no rights to use such content. The Software may contain or be accompanied by certain third party components which are subject to additional restrictions. These components, if any, may be accompanied by separate license files and/or may be identified in, and subject to, special license terms and conditions set forth in a "readme.txt" file, the "notices.txt" file, or the "Third Party Software" file accompanying the Software ("Special Notices"). The Special Notices include important licensing and warranty information and disclaimers. In the event of a conflict between the Special Notices and the other portions of this Agreement, the Special Notices will take precedence (but solely with respect to the third party component(s) to which the Special Notice relates). Any open source software that may be delivered by Progress embedded

in or in association with Progress products is provided pursuant to the open source license applicable to the software and subject to the disclaimers and limitations on liability set forth in such license.

5. Collection and Use of Data

Progress uses tools to deliver certain Software features and extensions, identify trends and bugs, collect activation information, usage statistics and track other data related to Your use of the Software as further described in the most current version of Progress' Privacy Policy (located at: <https://www.progress.com/legal/privacy-policy>). By Your acceptance of the terms of this Agreement and/or use of the Software, You authorize the collection, use and disclosure of this data for the purposes provided for in this Agreement and/or the Privacy Policy.

6. Updates

The parties agree and acknowledge that updates provided to You as part of this Agreement may include new software products governed by additional terms and conditions. By accepting, downloading, installing or in any way using such new product, You shall be deemed to have accepted these additional license terms. If You do not agree to these additional terms and conditions, You should not download, install or use the new products. In case of a conflict between the terms and conditions of the Agreement and the terms and conditions applicable to any new product made available to You as part of any updates, the terms and conditions of this Agreement shall govern.

7. Support and Maintenance Auto Renewal Program

You may elect to enroll in the Support and Maintenance Auto Renewal Program at the time of purchase for a License purchased online at www.telerik.com or at any time thereafter by enabling auto renew within Your www.telerik.com account ("Your Account") and/or by contacting Progress directly. By enrolling in the Support and Maintenance Auto Renewal Program, you understand and agree that Your access to updates and support will automatically renew for subsequent one-year Subscription Periods for the entire time that You remain actively enrolled in the Support and Maintenance Auto Renewal Program.

As a condition of Your initial and continued enrollment in the Support and Maintenance Auto Renewal Program, You agree to keep Your credit card, billing, and contact information up-to-date at all times via Your Account. You may change Your auto renewal preference at any time within Your Account or by contacting Progress directly. Progress may switch Your auto renewal preference to "off" at any time Progress determines or suspects that Your credit card, billing, and/or contact information is out of date, inaccurate, or fraudulent. Progress may disable or discontinue the Auto Renewal Program at any time for any reason without providing advance notice to You.

Access to updates and support is sold and invoiced by Progress. ONCE YOU HAVE ENROLLED IN THE SUPPORT AND MAINTENANCE AUTO RENEWAL PROGRAM, UNLESS YOU SET THE SUBSCRIPTION AUTO RENEWAL PREFERENCE TO "OFF" IN YOUR ACCOUNT PRIOR TO THE END OF YOUR EXISTING SUBSCRIPTION PERIOD, YOUR ACCESS TO UPDATES AND SUPPORT WILL AUTOMATICALLY RENEW, AND YOU AUTHORIZE PROGRESS (WITHOUT NOTICE) TO COLLECT THE THEN-APPLICABLE FEE AND ANY TAXES FOR THE RENEWAL SUBSCRIPTION PERIOD, USING THE CREDIT CARD OR BILLING CREDENTIALS THAT YOU PROVIDED WITH RESPECT TO YOUR INITIAL PURCHASE AND/OR YOUR

ENROLLMENT IN THE SUPPORT AND MAINTENANCE AUTO RENEWAL PROGRAM.

All payments are non-refundable, even if You / Your Licensed Developers stop using the Software and/or stop using/accessing support and updates. The fees and features applicable to support and updates may change over time. Your access will be renewed at an annual fee of 50% of the retail cost of a new Software license (at time of renewal), and at the level Progress, in its sole discretion, identifies as being closest to that which was provided during Your previous Subscription Period.

8. Copies

You may copy the Software only in order to make such number of back-up copies of the Software as are reasonably necessary to support Your lawful use of the Software in accordance with this Agreement. You shall ensure that all such copies are clearly identified as back-up copies, all intellectual property rights in which shall be owned by Progress, and shall on request disclose to Progress the number and locations of all such copies.

9. Limited Warranty

Progress warrants solely that the Software will perform substantially in accordance with the accompanying written materials for a period of ninety (90) days after the date on which You purchase the license for the Software. Progress does not warrant the use of the Software will be uninterrupted or error free at all times and in all circumstances, nor that program errors will be corrected. This limited warranty shall not apply to any error or failure resulting from (i) machine error, (ii) Licensee's failure to follow operating instructions, (iii) negligence or accident, (iv) modifications to the Software by any person or entity other than Progress or (v) Licensee's use of the Software outside the terms of this Agreement. In the event of a breach of warranty, Licensee's sole and exclusive remedy and Progress' sole and exclusive obligation, is repair of all or any portion of the Software. If such remedy fails of its essential purpose, Licensee's sole remedy and Progress' maximum liability shall be a refund of the paid purchase price for the defective Software only. This limited warranty is only valid if Progress receives written notice of breach of warranty no later than thirty (30) days after the warranty period expires. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION, PROGRESS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PROGRESS, ITS RESELLERS, OR ITS LICENSORS, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED. IN ANY CASE, PROGRESS' (AND ITS RESELLER'S AND ITS LICENSOR'S) ENTIRE LIABILITY UNDER ANY PROVISION

OF THIS AGREEMENT SHALL NOT EXCEED IN THE AGGREGATE THE SUM OF THE LICENSE FEES LICENSEE PAID TO PROGRESS FOR THE SOFTWARE GIVING RISE TO SUCH DAMAGES, NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS EXCLUSION AND LIMITATION MAY NOT BE APPLICABLE. PROGRESS IS NOT RESPONSIBLE FOR ANY LIABILITY ARISING OUT OF CONTENT PROVIDED BY LICENSEE OR A THIRD PARTY THAT IS ACCESSED THROUGH THE SOFTWARE AND/OR ANY MATERIAL LINKED THROUGH SUCH CONTENT. ANY DATA INCLUDED IN THE SOFTWARE UPON SHIPMENT FROM PROGRESS IS FOR TESTING USE ONLY AND PROGRESS HEREBY DISCLAIMS ANY AND ALL LIABILITY ARISING THEREFROM.

11. Indemnity

You agree to indemnify, hold harmless, and defend Progress, its licensors, and its resellers from and against any and all claims, lawsuits and proceedings (collectively "Claims"), and all expenses, costs (including attorney's fees), judgments, damages and other liabilities resulting from such Claims, that arise or result from (i) Your use of the Software in violation of this Agreement, (ii) the use or distribution of Your Integrated Product or (iii) Your modification of the Software's source code.

12. Confidentiality

Except as otherwise provided herein, each party expressly undertakes to retain in confidence all information and know-how transmitted or disclosed to it that the disclosing party has identified as being proprietary and/or confidential or that, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary and/or confidential, and expressly undertakes to make no use of such information and know-how except under the terms and during the existence of this Agreement. However, neither party shall have an obligation to maintain the confidentiality of information that (i) it received rightfully from a third party without an obligation to maintain such information in confidence; (ii) the disclosing party has disclosed to a third party without any obligation to maintain such information in confidence; (iii) was known to the receiving party prior to its disclosure by the disclosing party; or (iv) is independently developed by the receiving party without use of the confidential information of the disclosing party. Further, either party may disclose confidential information of the other party as required by governmental or judicial order, provided such party gives the other party prompt written notice prior to such disclosure and complies with any protective order (or equivalent) imposed on such disclosure. Without limiting the foregoing, Licensee shall treat any source code for the Software as confidential information and shall not disclose, disseminate, or distribute such materials to any third party without Progress' prior written permission. Each party's obligations under this Section 12 shall apply at all times during the term of this Agreement and for five (5) years following termination of this Agreement, provided, however, that (i) obligations with respect to source code shall survive in perpetuity and (ii) trade secrets shall be maintained as such until they fall into the public domain.

13. Governing Law

This Agreement will be governed by the law of the Commonwealth of Massachusetts, U.S.A., without regard to the conflict of laws principles thereof. If any dispute, controversy, or claim cannot be resolved by a good faith discussion between the parties, then it shall be submitted for resolution to a state or Federal court of competent jurisdiction in Boston,

Massachusetts, USA, and the parties hereby agree to submit to the jurisdiction and venue of such court. The Uniform Computer Information Transactions Act and the United Nations Convention on the International Sale of Goods shall not apply to this Agreement. If any provision of this Agreement is to be held unenforceable, such holding will not affect the validity of the other provisions hereof. Failure of a party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

14. Entire Agreement

This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous communications regarding the subject matter hereof. Use of any purchase order or other Licensee document in connection herewith shall be for administrative convenience only and all terms and conditions stated therein shall be void and of no effect. The terms and conditions contained in this Agreement shall prevail over any inconsistent provisions in any form or other paper submitted by Licensee. In cases where this license is being obtained through an approved third party, these terms shall supersede any third party license or purchase agreement.

15. No Assignment

You may not assign, sublicense, sub-contract, or otherwise transfer this Agreement, or any rights or obligations under it, without Progress' prior written consent.

16. Survival

Any provisions of the Agreement containing license restrictions, warranties and warranty disclaimers, confidentiality obligations, limitations of liability and/or indemnity terms, and any provision of the Agreement which, by its nature, is intended to survive shall remain in effect following any termination or expiration of the Agreement.

17. Severability

If a particular provision of this Agreement is terminated or held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, this Agreement shall remain in full force and effect as to the remaining provisions. This Agreement represents the entire understanding between the parties with respect to the subject matter.

18. Force Majeure

Neither party shall be deemed in default of this Agreement if failure or delay in performance is caused by an act of God, fire, flood, severe weather conditions, material shortage or unavailability of transportation, government ordinance, laws, regulations or restrictions, war or civil disorder, or any other cause beyond the reasonable control of such party.

19. Export Classifications

You expressly agree not to export or re-export Progress Software or Your Integrated Product to any country, person, entity or end user subject to U.S. export restrictions. You specifically agree not to export, re-export, or transfer the Software to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of

any such country, wherever located, who intends to transmit or transport the products back to such country, or to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. You warrant and represent that neither the U.S.A. Bureau of Export Administration nor any other federal agency has suspended, revoked or denied Your export privileges.

20. Commercial Software

The Programs and the Documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

21. Reports and Audit Rights.

Licensee shall grant Progress audit rights against Licensee twice within a calendar three hundred and sixty-five (365) day period upon two weeks written notice, to verify Licensee's compliance with this Agreement. Licensee shall keep adequate records to verify Licensee's compliance with this Agreement.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND THIS AGREEMENT, AND UNDERSTAND THAT BY CONTINUING THE INSTALLATION OF THE SOFTWARE PRODUCT, BY LOADING OR RUNNING THE SOFTWARE PRODUCT, OR BY PLACING OR COPYING THE SOFTWARE ONTO YOUR COMPUTER HARD DRIVE, YOU AGREE TO BE BOUND BY THIS AGREEMENT'S TERMS AND CONDITIONS. YOU FURTHER AGREE THAT, EXCEPT FOR WRITTEN SEPARATE AGREEMENTS BETWEEN PROGRESS AND YOU, THIS AGREEMENT IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITIES OF THE PARTIES.



Copyright © 2019, Progress Software Corporation and/or its subsidiaries or affiliates. All Rights Reserved.

Progress, Telerik, and certain product names used herein are trademarks or registered trademarks of Progress Software Corporation and/or one of its subsidiaries or affiliates in the U.S. and/or other countries. See Trademarks for appropriate markings.