General Terms of Service for Progress NativeScript Sidekick

(Last Updated January 1, 2019)

What the Agreement Covers:

Progress NativeScript Sidekick, aka NativeScript Sidekick (as defined below), is being made available by Progress Software Corporation ("Progress," "we," "us," or "our") to You on the condition that You agree to these terms and conditions (the "Agreement"). "Licensee," "You," or "Your" refers to the person accessing or using NativeScript Sidekick, or, if NativeScript Sidekick is being used on behalf of an organization, such as an employer, "License," "You," or "Your" means such organization. In the latter case, the person accessing or using NativeScript Sidekick represents and warrants that he or she has the authority to do so and bind such organization to this Agreement. Violation of any of the terms below will result in the termination of this Agreement and Your access to NativeScript Sidekick. BY CLICKING THE "I ACCEPT" BUTTON, COMPLETING THE REGISTRATION PROCESS, OR DOWNLOADING AND/OR USING ANY PORTION OF NATIVESCRIPT SIDEKICK, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED AND ACCEPT THESE TERMS AND ARE AUTHORIZED TO ACT ON BEHALF OF, AND BIND TO THIS AGREEMENT, THE OWNER OF THIS ACCOUNT. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT ACCESS OR USE NATIVESCRIPT SIDEKICK OR ANY PORTION THEREOF.

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

NativeScript Sidekick is a natural extension to Progress' Progress NativeScript open source framework. NativeScript Sidekick combines UI tools with cloud services to enable the development and building of native mobile applications.

This Agreement does not grant You a license to, or any rights to use or distribute, Progress NativeScript UI or Progress NativeScript open source framework. To obtain a license to Progress NativeScript UI, please visit http://www.telerik.com/purchase/license-agreements. To obtain a license to Progress NativeScript, please visit https://www.nativescript.org/

This Agreement 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 hereunder are reserved in all respects by Progress.

Progress reserves the right to add, modify or discontinue any product, feature or service (collectively "Progress Products") made available through NativeScript Sidekick. Such modifications or additions may be subject to additional terms (the "Additional Terms") which will be made available by Progress at the time of such modification or addition at: http://www.telerik.com/purchase/license-agreements. The Additional Terms (if any) are made a part of and are subject to this Agreement and by agreeing to the terms of this Agreement You also agree to the Additional Terms.

If there is any conflict between the terms of the Agreement and the Additional Terms, then the Additional Terms take precedence in relation to that Progress Product. Hereinafter, all references to this

Agreement shall mean the terms of this Agreement and any applicable Additional Terms and all other documents incorporated by reference in this Agreement.

Progress may change the terms of this Agreement at its sole discretion. If we change the terms, then we will make a new copy of the Agreement available at https://www.nativescript.org/nativescript-sidekick/eula. Your use of NativeScript Sidekick is subject to the most current version of the Agreement at the time of such use. By continuing to use NativeScript Sidekick following the update of this Agreement and/or the posting or update of any Additional Terms, you acknowledge that you have reviewed and accepted the then current terms of the Agreement including any Additional Terms.

NativeScript Sidekick has an optional integration with Kinvey Platform to use mobile backend services, however this Agreement does not provide You a license to Kinvey Platform. Kinvey Platform is licensed by Kinvey, LLC. If while using NativeScript Sidekick You choose to access Kinvey Platform through NativeScript Sidekick or use Kinvey Platform in connection with NativeScript Sidekick and/or Your Application(s), then Your access/use of Kinvey Platform is subject to and You agree to be bound by the Kinvey Terms of Service that can be found at https://www.progress.com/legal/license-agreements/kinvey. If You choose to access Kinvey Platform through NativeScript Sidekick or use Kinvey Platform in connection with NativeScript Sidekick and/or Your Application(s), then: (i) You represent and warrant to Progress that You have read and that You accept the Kinvey Terms of Service; and, (ii) You authorize Progress to: (a) to create a new Kinvey Platform "Developer" (as defined within the Kinvey Terms of Service) account for you and on your behalf, and (b) access and configure Your (newly created and any previously existing) Kinvey Platform account(s) to create and configure Your mobile Application backend services. (Please note that if You already have a Kinvey Platform account associated with the same email address that you use with NativeScript Sidekick, you may need to first login to Kinvey and manually link your Kinvey Platform account to NativeScript Sidekick.

1. Certain Definitions.

"NativeScript Sidekick" means the Downloaded Software, the Hosted Services, the Integrated Software, and any updates, upgrades, modifications and error corrections thereto provided to You by Progress.

"Downloaded Software" means any computer software programs, SDKs, codes, and/or files made available by Progress through or as a part of NativeScript Sidekick in connection with your Subscription which you may be required to download and install/store locally on your computer in order to develop and deploy Applications and/or connect to and/or use the Hosted Services, along with any related documentation any updates, upgrades, or new versions of the foregoing.

"Hosted Services" means the hosted cloud-based services available to you by Progress as a part of NativeScript Sidekick in connection with your Subscription.

"Integrated Software" means that portion of the Downloaded Software intended for integration within your Application.

"Applicable Laws" means national, federal, state, and local laws, rules, and regulations including, without limitation, those laws and regulations relating to data privacy and security in each applicable jurisdiction.

"Application" means those software applications which: (i) are developed, processes, stored, accessed, published, and/or supported by You using NativeScript Sidekick; (ii) add substantial functionality beyond the functionality provided by the Integrated Software; and (iii) are not commercial alternatives for, or competitive in the marketplace with NativeScript Sidekick, any components of NativeScript Sidekick, or any other Progress products or services.

"AUP" means the policy identified as the "NativeScript Sidekick Acceptable Use Policy," the current version of which is set forth at https://www.nativescript.org/nativescript-sidekick/aup and as it may be updated by Progress from time to time.

"Confidential Information" includes any proprietary data and any other information disclosed by one party to the other in writing and marked "confidential" or disclosed orally and, within five business days, reduced to writing and marked "confidential." However, Confidential Information will not include any information which: (i) is Content; (ii) is or becomes known to the general public other than through a breach of the receiving party's obligations hereunder; (iii) is already in the receiving party's possession prior to disclosure by the disclosing party; (iv) is received rightfully from a third party without an obligation to maintain such information in confidence; or (v) is independently developed by the receiving party without the use of the disclosing party's Confidential Information.

"Content" means all data and content, such as data files, written text, keys, computer software, music, audio files or other sounds, photographs, videos or other images that You upload to or process using NativeScript Sidekick, including those used in the development of Your Application.

"Developer Account" means an account specific to one of Your Licensed Developers through which the Licensed Developer accesses NativeScript Sidekick for Your benefit and/or on Your behalf.

"Documentation" means any accompanying documentation made available to You (electronically or otherwise) by Progress for use with NativeScript Sidekick, expressly excluding any user blogs, reviews, or forums.

"Intellectual Property" or *"Intellectual Property Rights"* means all inventions and/or works and any and all rights under U.S. and/or foreign patents, trade secrets, know-how, copyrights, and other industrial or intangible property rights of a similar nature; all rights pursuant to grants and/or registrations worldwide in connection with the foregoing and all other rights with respect thereto; all rights under applications for any such grant or registration, all rights of priority under international conventions to make such applications and the right to control their prosecution, and all rights under amendments, continuations, divisions, and continuations-in-part of such applications; and all rights under corrections, reissues, patents of addition, extensions, and renewals of any such grant, registration, and/or right.

"*Licensed Developer*" means You or an individual person, employee or third-party consultant authorized to develop and use NativeScript Sidekick for You in accordance with this Agreement and for whom you, to the extent permitted by applicable law, do hereby accept full responsibility as if the acts and/or omissions of such Licensed Developer were Your own. Each Licensed Developer must register his/her own Developer Account and may not use NativeScript Sidekick except under the terms of this Agreement.

"Subscription" means Your subscription to NativeScript Sidekick pursuant to the terms of this Agreement. Subscription is further limited to the specific level of service to which You have subscribed.

The words "include" and "including" mean "including but not limited to."

2. Nonexclusive Licenses.

2.1. Licenses. Subject to the terms and conditions set forth in this Agreement and the AUP, Progress hereby grants to You, and You hereby accept: (i) a limited, personal, non-transferable, non-sublicensable (except to the extent set forth herein) and non-exclusive license to, and to allow Your Licensed Developer(s) to: 1) download, install and use the Downloaded Software; 2) access and use the Hosted Services while You have an active Subscription; and 3) integrate and redistribute the Integrated Software, solely in the development and support of Your Applications. Any and all rights in the NativeScript Sidekick 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 NativeScript Sidekick.

2.2 Scope of License Grants.

2.2.1 Downloaded Software License Grant. Subject to the terms and conditions set forth in this Agreement and the AUP, You/Your Licensed Developer(s) may use the Downloaded Software in object code form only in the development, testing, and building of Your Applications.

2.2.2 Hosted Services License Grant. Subject to the terms and conditions set forth in this Agreement and the AUP, You/Your Licensed Developer(s) may access and use the Hosted Services in the development, testing and building of Your Applications while You have an active Subscription.

2.2.3 Your Licensed Developers must all be using NativeScript Sidekick at the same Subscription level and may not exceed the number of seats You have purchased from Progress hereunder. A Developer Account is specific to the Licensed Developer who creates it; such Licensed Developer is the only one authorized to use his/her Developer Account. Licensing of NativeScript Sidekick is subject to monthly usage limits. Progress will notify You when the cumulative use of NativeScript Sidekick, under all of Your Licensed Developers' Developer Accounts, approaches Your allowable monthly limit(s). If such monthly usage exceeds the amount for which You have paid, access to all Developer Accounts will be suspended unless or until (i) You pay the applicable fees for an upgrade to higher usage limits; or (ii) a new billable month begins.

2.3 Redistribution.

2.3.1 License for Redistribution. You may distribute the Integrated Software in object or minified form (as applicable) only as embedded in the object code form of Your Application for use by Your end-users and only pursuant to an end-user license that meets the requirements of this Section. You are not permitted to distribute the Integrated Software pursuant to this Section as a standalone product or as a part of any product other than Your Application. Your end-user license agreement or terms of use must: impose the limitations set forth in this paragraph on Your end-users; prohibit distribution of the Integrated Software by Your 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 Integrated Software, except to the limited extent as is permitted by law notwithstanding contractual prohibition. For avoidance of doubt, Your end users are not permitted to use NativeScript Sidekick, including any of the Integrated Software, 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.

2.3.2 Third Party Notice Requirements. You must comply with these terms and conditions, including the notice requirements of any third party and open source software licenses which govern the Integrated Software included in Your Application.

2.4. Limitations.

2.4.1 You must ensure that absolutely no portion of the Integrated Software is distributed in any form that allows it to be reused by any application other than Your Application.

2.4.2 Except as specifically permitted in the terms of this Agreement You may not (and You may not allow any of Your Licensed Developers to):

(i) use the Progress product names, logos or trademarks to market Your Application

(i) copy, modify, adapt, translate, or otherwise create derivative works of NativeScript Sidekick, Progress Intellectual Property or any software, services, or other technology of the third-party vendor(s) or hosting partner(s) who Progress engages to provide the infrastructure, hardware, software, networking, storage, and related technology required to operate and provide NativeScript Sidekick;

(ii) 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 NativeScript Sidekick, or Progress Intellectual Property, except as expressly permitted by the law in effect in the jurisdiction in which You are located;

(iii) rent, lease, sell, resell, assign, sublicense, except as required by law or expressly provided in this Agreement, or otherwise transfer rights in or to NativeScript Sidekick or Progress Intellectual Property, or make NativeScript Sidekick or Progress Intellectual Property available on a "service bureau" basis or (except as otherwise provided for in this Agreement) otherwise allow any third party to use or access any of the foregoing;

(iv) remove or modify any proprietary notices, legends, or labels on NativeScript Sidekick or Progress Intellectual Property;

(v) use, post, transmit, or introduce into NativeScript Sidekick or Progress Intellectual Property any device, software, virus, worm, back door, Trojan Horse, similar harmful code, or routine which interferes or attempts to interfere with the operation of NativeScript Sidekick or Progress Intellectual Property;

(vi) use or access NativeScript Sidekick or Progress Intellectual Property in a manner that: (a) violates any Applicable Laws; (b) violates the rights of any third party; (c) purports to subject Progress to any other obligations; (d) could be fraudulent; or (e) for any purpose not specifically permitted in this Agreement;

(vii) access NativeScript Sidekick for the purpose of bringing an intellectual property infringement claim against Progress; or

(viii) use NativeScript Sidekick in any situation where failure or fault of NativeScript Sidekick could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, You may not use, or permit any other person to use, NativeScript Sidekick in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices.

3. Delivery.

Progress shall, as applicable to the nature of each of its particular components, either make available for download to You, or host for access by You/Your Licensed Developer(s), a master copy of NativeScript Sidekick.

You are solely responsible for obtaining and maintaining all computer hardware, internet access and internet services necessary to access and use NativeScript Sidekick.

4. Support and Updates

4.1 Support. Support is available for certain editions of NativeScript Sidekick during active Subscription periods. The level of support (if any) that you receive for the Supported Software depends upon the edition of NativeScript Sidekick to which you have subscribed (the "Licensed Edition"). Support for Your Licensed Edition may also include support for Progress' computer programs identified as: (i) Progress NativeScript; and/or (ii) Progress NativeScript UI. All references to "Supported Software" in this Section 4.1 shall mean NativeScript Sidekick, Progress NativeScript, and/or Progress NativeScript UI to the extent applicable for Your Licensed Edition. To be eligible for support: (i) your use of the Supported Software must be in full compliance with the terms of the applicable license agreement; and (ii) you must provide all information and evidence necessary for Progress support personnel to adequately understand your support issue and diagnose the cause of such issue.

4.1.1   You must maintain an active Subscription to the NativeScript Sidekick Hosted Services in order to be eligible for support services (if any). For the period(s) during which You maintain an active Subscription to the NativeScript Sidekick Hosted Services, Your Licensed Developer(s) will have access to

the support services (if any), as described for Your Licensed Edition in further detail at: https://www.nativescript.org/nativescript-sidekick/purchase/support-plans

4.1.2   You understand and agree that the support services may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, You.

4.1.3   Supported Versions. Supported versions of the Supported Software are based on a Major.Minor ordered pair (e.g. 1.0, 1.1, 1.2, etc). The supported versions applicable to Your Licensed Edition are set forth at: https://www.nativescript.org/nativescript-sidekick/purchase/support-plans

4.1.4   Exclusions, Limitations, and Fair Usage Policy.

4.1.4.1   Support services are not available or provided hereunder for or related to:

a)   Any software other than the Supported Software;

b)   Machine error;

c)   Your/Your Licensed Developer's failure to follow operating instructions;

d)   Your/Your Licensed Developer's use of the Supported Software that is not in accordance with the Documentation (with respect to NativeScript Sidekick) and/or the documentation made available by Progress for Progress NativeScript and Progress NativeScript UI (with respect to such Progress computer programs);

e)   Your/Your Licensed Developer's negligence or improper use of the Supported Software;

f)   Modifications to the Supported Software by any person or entity other than Progress;

g)   Any data or software other than the Supported Software, including, but not limited to, applications, application programs, databases, files, source codes, object codes or proprietary data (including, but not limited to, any of the forgoing which support and/or have been developed using Your Application(s), or any configuration, installation or reinstallation of any software or data. You are responsible for backing up copies of all your data and software prior to seeking support from Progress;

h)   Any custom development, integration or implementation, project upgrades or project migrations; or

i)   Any installation, deployment, or use of the Supported Software: (i) in any country or by any individual or entity subject to U.S. Export restrictions; (ii) for any purpose(s) which Progress determines in its sole discretion is/are unlawful, immoral, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable, or in violation of any party's privacy or intellectual property rights; (iii) in any situation where failure or fault of the

Supported Software could lead to death or serious bodily injury of any person, or to physical or environmental damage.

j) In no event will Progress provide support services or any support of any kind to anyone other than Your named Licensed Developers.

If it is determined by Progress in its sole discretion that You have received support from Progress for which You were not eligible or to which the above exclusions and limitations apply, or if Your use of the support services is determined by Progress, in its sole and reasonable discretion, to be excessive, Progress may limit or terminate Your access to any or all of the support services available hereunder.

4.1.4.2 Support Incidents. A single support incident may involve several e-mails and/or offline work in furtherance of Progress' efforts to resolve the issue. You agree to provide Progress with detailed information about the issue encountered and cooperate with Progress' requests for additional information as it attempts to resolve the issue. Progress support engineers will make reasonable efforts to resolve Your support issues; however, Progress does not guarantee that all support issues will be resolved. Bug reports and product feature suggestions are not considered support incidents, and Progress is not obligated to acknowledge or address such bug reports and/or product feature suggestions.

4.1.4.3 Progress shall retain all right, title and interest, including, all intellectual property rights, in and to all intellectual property created and/or delivered in the course of performing the support services (collectively "Developed IP"), including all rights in all works of authorship, information, data, ideas, designs, inventions, know-how, analytical methodologies, software, and any other materials authored, invented, discovered, conceived, reduced to practice, designed, developed, possessed, owned and/or used under third party license by Progress as well as any derivative works.

4.1.4.4 Progress hereby grants to You a limited, non-transferable, perpetual, worldwide, royalty-free, non-exclusive license to use any Developed IP, which Progress delivers to You, solely in conjunction with the Supported Software and subject to the terms and conditions set forth in the applicable license agreement for such Supported Software.

4.1.5 Scope of Use. The number of Licensed Developers accessing the support services 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 all applicable fees.

4.1.6 Support features and availability may change over time. Progress offers no assurance that support services will be available for Your Licensed Edition at the time of Your Subscription renewal or that, if available, the support services for Your Licensed Edition will be at a level and/or with features comparable to those made available during Your previous Subscription.

4.2 Updates. During the Term of your License, Progress may, but is under no obligation to, provide updates to the Downloaded Software. You must maintain an active Subscription to the Hosted Services

in order to be eligible for updates (if any) to the Downloaded Software. Updates, if any, will be at Progress' sole discretion and will be based upon Your Subscription level. Updates, if any, will replace and/or supplement (and may disable) the version of the Downloaded Software that formed the basis for Your eligibility for the update. You may use the resulting updated Downloaded Software only in accordance with the terms of this License.

5. Content.

5.1. Storage of Content. Progress may allow You/Your Licensed Developer(s) to store, process, access, and query Content in the Hosted Services, provided You comply with the terms of this Agreement. You agree that You are solely responsible for (and that Progress has no responsibility to You or to any third party for) any Content that You/Your Licensed Developer(s) upload, create, process, transmit or display while using the Hosted Services and for the consequences of Your/Your Licensed Developer(s) actions (including any loss or damage which Progress may suffer) by doing so. You are solely responsible for the backup of Your Content and acknowledge that You/Your Licensed Developer(s) upload Content at Your own risk. The Hosted Services may be periodically inaccessible for reasons including maintenance updates, power outages, system failures, extended downtime and other interruptions. During such periods, You/Your Licensed Developer(s) may be unable to access or use all or a portion of the Hosted Services and some or all of Your Content may be deleted. If Progress determines that an outage or interruption may cause risk to the Hosted Services, Progress may suspend the Hosted Services.

5.2 Transmission of Content. You understand that the technical processing and transmission of the Hosted Services, including Your Content, may be transferred unencrypted and involve: (i) transmissions over various networks; and (ii) changes to conform and adapt to technical requirements of connecting networks or devices. You understand that Progress uses third party vendors and hosting partners to provide the necessary infrastructure, hardware, software, networking, storage, and related technology required to run the Hosted Services.

5.3. Content Removal. Progress does not pre-screen Content, but Progress and its designees (including its third-party vendors and hosting partners) have the right (but not the obligation) in their sole discretion to access, review, and monitor Your Content and to refuse, remove or delete any Content, without notice, that it determines in its sole discretion is unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property rights or the terms of this Agreement. You may backup Your Content to Your own or a third party system, but otherwise Progress has no obligation to hold, export, or return any Content. Progress has no liability for the deletion of any (or all) Content at any time.

6. Application Publishing.

6.1 By Your/Your Licensed Developer(s) use of the Hosted Services to publish Your Application to Your applicable third-party service developer account, You expressly authorize Progress to submit and publish Your Application on Your behalf. You agree and acknowledge that the relationship of the parties shall be as an independent contractor and not as partner, joint venturer, or agent of the other. You are solely responsible for acquiring the necessary rights to publish Your Application.

6.2 License to Progress. You license to Progress (and its affiliates and necessary sublicensees), all intellectual property or other rights required to allow Progress to use or process Content or other information through the Hosted Services. Progress may only use such rights, Content and information to provide, operate, and improve the Hosted Services. Other than as necessary to provide, operate, and improve the Hosted Services, Progress has no right of ownership or control over Licensee's Content or other information provided by You/Your Licensed Developer(s) in connection with the use of the Hosted Services. Licensee is solely responsible for protecting rights it has, or may have, in its Application(s), Content or information.

7 Member Account, Password, and Security.

7.1 To access NativeScript Sidekick, You / Your Licensed Developers must each create a Developer Account associated with a valid e-mail address. No individual may create or have open more than one (1) Developer Account at any given time. No one may authorize other individuals to access NativeScript Sidekick under their Developer Account. You will notify Progress immediately if You believe an unauthorized third party may be using Your, or Your Licensed Developers', Developer Account. Progress will not be liable for any loss resulting from an unauthorized person using a Developer Account, passwords or any assigned credentials.

7.2 NativeScript Sidekick may also be accessed via Facebook, Live ID, Google, Yahoo and GitHub authentication services that facilitate sign in to web sites and conduct of e-commerce transactions. The use of these third party authentication services by You or Your Licensed Developers will be subject to the service agreement You/Your Licensed Developers entered into as a condition of signing up for the applicable authentication service.

8 Term and Termination.

8.1 This Agreement, and the Licenses granted hereunder, shall continue until they expire or are terminated in accordance with this Section. Unless otherwise specified in this Agreement, the License to use the Downloaded Software granted hereunder and the License to redistribute the Integrated Software granted hereunder shall last as long as Your/Your Licensed Developers use and redistribution of NativeScript Sidekick remains in full compliance with the terms of this Agreement. You must however maintain an active Subscription for each Developer Account to continue using the Hosted Services. The License granted hereunder to access and use the Hosted Services may be renewed for successive Subscription periods pursuant to the applicable Subscription purchased/obtained, until terminated in accordance with this Section. If You do not maintain an active Subscription, the License granted hereunder to access and/or use the Hosted Services, along with Your and Your Licensed Developer's use of and access to NativeScript Sidekick Hosted Services, will terminate.

If You have obtained a free or trial Subscription, Progress reserves the right at any time to modify or discontinue, temporarily or permanently, such free or trial Subscription and Your access to the NativeScript Sidekick Hosted Services thereunder with or without notice. Unless modified or discontinued by Progress in its sole discretion, Your free or trial (as applicable) Subscription shall continue until the earlier of: (i) the expiration of the term specified by Progress at the time You obtained

such Subscription; and (ii) such time that You cancel such free or trial Subscription or upgrade to a paid Subscription for any of the Progress Products.

If You have obtained a paid Subscription, payment is non-refundable, even if You / Your Licensed Developers stop using any or all of NativeScript Sidekick. If You upgrade Your Subscription, the upgrade will take effect immediately, You will be charged and must pay the applicable fee, and the term of Your Subscription period may be extended, as described at the time You upgrade. You generally may not downgrade a Subscription and there is no automated mechanism available to You by which to downgrade. Downgrades require Progress' approval and assistance. Please contact Progress at sales@telerik.com if You wish to request a downgrade. If You downgrade Your Subscription, unless otherwise specified, the downgrade will take effect at the end of the term of Your existing Subscription period.

8.2 Automatic Renewal of Paid Subscription. UNLESS YOU / YOUR LICENSED DEVELOPERS SET THE SUBSCRIPTION AUTO RENEWAL PREFERENCE TO "OFF" IN THE DEVELOPER ACCOUNT PRIOR TO THE END OF YOUR EXISTING SUBSCRIPTION PERIOD, YOUR PAID SUBSCRIPTION WITH RESPECT TO THAT ACCOUNT 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 THE PREVIOUS SUBSCRIPTION PERIOD. Subscription fees and features may change over time. Your Subscription will be renewed at the level Progress, in its sole discretion, identifies as being closest to Your previous Subscription.

8.3 Promotional and Trial Offers. Progress may offer trial or promotional Subscriptions ("Promotional Subscriptions") for Progress Products. Unless otherwise specified, a Promotional Subscription will remain active only for as long as You maintain an active, paid Subscription to NativeScript Sidekick Hosted Services or the other Progress product, software or service which formed the basis of Your eligibility for the Promotional Subscription. Progress reserves the right at any time to modify or discontinue, temporarily or permanently, any Promotional Subscription and Your access to the Progress Product thereunder with or without notice.

8.4 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 Licenses granted hereunder immediately if: (i) You breach any of the terms of this Agreement, (ii) if Progress' relationship with a third-party vendor or hosting partner who provides software, services, or other technology that Progress uses to provide NativeScript Sidekick expires, terminates or requires Progress to change the way in which such software, services, or other technology is provided as part of NativeScript Sidekick, (iii) if Progress believes providing NativeScript Sidekick could create a substantial economic or technical burden or material security risk for Progress, (iv) in order to comply with the law or requests of governmental entities, or (v) if Progress determines Your use of, or Progress' provision of, NativeScript Sidekick has become impractical or unfeasible for any legal or regulatory reason.

8.5 Unless otherwise specified in the Additional Terms, upon cancellation, suspension or termination, all Licenses granted to You hereunder shall terminate automatically and Your right to use NativeScript Sidekick (including any/all Downloaded Software) shall cease. You are solely responsible for backing up Your Content and Application(s). Except in the case of termination by Progress for Your breach of the terms of this Agreement, You may create a new Developer Account and/or obtain a new Subscription following the expiration or termination of Your Subscription.

9. Confidentiality.

Neither party will use or disclose the other party's Confidential Information without the other's prior written consent, except for the purpose of performing its obligations under this Agreement or if required by law, regulation, or court order, in which case, the party being compelled to disclose Confidential Information will give the other party as much notice as is reasonably practicable prior to disclosing the Confidential Information. Upon termination of this Agreement, the parties will promptly either return or destroy all Confidential Information and, upon request, provide written certification of such.

10. Use of Third-Party Vendors; Transmission of Data.

Progress may use third-party vendors and hosting partners to provide the infrastructure, hardware, software, networking, storage, and related technology required to operate and provide NativeScript Sidekick, and such third parties may be granted access to Your Applications and/or Content in connection with providing such services to Progress. You agree that You shall have no rights against such third parties in connection with NativeScript Sidekick. In addition, You understand that the technical processing and transmission of NativeScript Sidekick, including Your Content and/or Application(s), may be transferred unencrypted and involve (i) transmissions over various networks; and (ii) changes to conform and adapt to technical requirements of connecting networks or devices.

11. Security.

Progress may apply security technologies and procedures to help protect against unauthorized access or use of NativeScript Sidekick. Progress does not guarantee the success of such technologies and procedures. You are solely responsible for the security, protection and backup of Your Applications and Content, and any other content or software You/Your Licensed Developer(s) use in connection with NativeScript Sidekick.

12. Privacy.

Data/Information Collection, Use and Disclosure by Progress. With respect to NativeScript Sidekick, Progress may access, collect, use, and/or disclose information about You, Your account, Your Licensed Developers, Developer Accounts, the content of Your or Your Licensed Developers' communications, and/or Your/Your Licensed Developers' operating environment(s) (including, but not limited to, information about hardware and other software present within the operating environment or otherwise utilized by You/Your Licensed Developers) in order to (i) provide, operate, support, and improve

NativeScript Sidekick; (ii) identify trends and bugs, collect activation information, usage statistics and track other data related to Your/You Licensed Developers use of NativeScript Sidekick as further described in the most current version of the Privacy Policy (as defined below); (iii)comply with Applicable Laws or respond to lawful requests or legal process; or (iii) protect the rights or property of Progress or other parties, including the enforcement of Progress' agreements or policies governing the use of NativeScript Sidekick. Personal data collected or otherwise processed by Progress in the performance of services related to NativeScript Sidekick may be transferred to, and stored and processed in, the United States or any other country in which Progress or its affiliates or service providers maintain facilities. For more information read the privacy statement at https://www.progress.com/legal/privacy-policy (the "Privacy Policy").

By Your acceptance of the terms of this Agreement and/or use of NativeScript Sidekick, You authorize the collection, use and disclosure of this data for the purposes provided for in this Agreement and/or the Privacy Policy.

13. Indemnification.

To the extent permitted by Applicable Law, You will indemnify, hold harmless, and defend Progress and its affiliates, and its and their respective officers, directors, employees, and agents from and against any and all claims, lawsuits, and proceedings (collectively "Claims"), and all expenses, costs (including attorney's fees), judgments, damages, settlements, penalties, fines, and other liabilities resulting from such Claims, that arise or result from: (i) Your breach of this Agreement; (ii) the use or distribution of Your Applications; (iii) Your / Your Licensed Developers' use of NativeScript Sidekick; (iv) Your violations of Applicable Laws or obligations of privacy to any third party; (v) any representations and warranties made by You concerning any aspect of NativeScript Sidekick to any third party; and/or (v) modification of any NativeScript Sidekick source code.

Progress will provide You with written notice of any Claim. You shall have the right to control and direct the defense of such Claim. You shall not agree to any settlement or consent to judgment that requires any admission of liability or payment of monies by Progress without Progress' prior written consent. Progress shall have the right, at its expense, to retain counsel and participate in defense of the Claim strictly on a monitoring basis.

Notwithstanding the foregoing, if You fail to respond in writing within ten (10) days after receiving notice of a Claim from Progress, stating that You will fulfill Your obligations pursuant to this Section, then Progress shall have the right to assume the exclusive defense of the Claim (including, without limitation, the investigation, trial, settlement, appeal, and payment of any Losses) solely at Your expense. You will fully cooperate in the defense of any Claim.

14. Modifications to Terms of This Agreement and Other Policies.

Progress may modify the terms of this Agreement, including any Additional Terms or any other terms that apply to NativeScript Sidekick to, for example, reflect changes to the law or changes to NativeScript

Sidekick. You should look at the terms of this Agreement regularly. Progress will post notice of modifications to the terms of this Agreement at https://www.nativescript.org/nativescript-sidekick/eula or policies referenced herein at the applicable URL for such policies. If You use NativeScript Sidekick after changes are posted, You will be deemed to have accepted them. If You do not agree to the modified terms of the Agreement or changes to other policies, You should discontinue Your use of NativeScript Sidekick, which termination is Your sole and exclusive remedy.

15. WARRANTY DISCLAIMER.

YOUR USE OF NATIVESCRIPT SIDEKICK IS AT YOUR SOLE RISK. NATIVESCRIPT SIDEKICK IS PROVIDED "AS IS," "WITH ALL FAULTS" AND "AS AVAILABLE." YOU BEAR THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AVAILABILITY OF APPLICATIONS AND CONTENT FROM NATIVESCRIPT SIDEKICK. PROGRESS MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO NATIVESCRIPT SIDEKICK OR SUPPORT SERVICES (IF ANY). YOU UNDERSTAND THAT PROGRESS USES AFFILIATES, THIRD-PARTY VENDORS AND HOSTING PARTNERS TO PROVIDE THE NECESSARY HARDWARE, SOFTWARE, NETWORKING, AND RELATED TECHNOLOGY REQUIRED TO RUN NATIVESCRIPT SIDEKICK AND THAT PROGRESS IS NOT RESPONSIBLE FOR THE SERVICES PROVIDED BY SUCH THIRD PARTIES. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, PROGRESS DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESS, STATUTORY, AND IMPLIED, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. TO THE EXTENT THAT PROGRESS MAY NOT AS A MATTER OF APPLICABLE LAW DISCLAIM ANY IMPLIED WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER APPLICABLE LAW.

16. Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PROGRESS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE NATIVESCRIPT SIDEKICK, OR OTHERWISE ARISING UNDER THE TERMS OF THIS AGREEMENT, 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' ENTIRE LIABILITY UNDER ANY PROVISION OF THE TERMS OF THIS AGREEMENT, INCLUDING ANY ADDITIONAL TERMS, SHALL NOT EXCEED, IN THE AGGREGATE, THE SUM OF THE FEES PAID BY YOU TO PROGRESS OVER THE PRECEDING TWELVE MONTH PERIOD UNDER THIS AGREEMENT, 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 TO YOU. PROGRESS IS NOT RESPONSIBLE FOR ANY LIABILITY ARISING OUT OF APPLICATIONS OR DATA PROVIDED BY YOU, YOUR LICENSED DEVELOPERS, OR A THIRD PARTY THAT IS ACCESSED THROUGH NATIVESCRIPT SIDEKICK. THE

PARTIES ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY IN THIS SECTION ARE REASONABLE AND THAT THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN PROGRESS AND LICENSEE, AND THE PARTIES HAVE RELIED UPON THE LIMITATIONS SET FORTH HEREIN IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT. THE REMEDIES PROVIDED TO LICENSEE IN THIS AGREEMENT ARE EXCLUSIVE.

17. Links to Third-Party Sites.

NativeScript Sidekick may include links to third-party sites. Progress does not control such sites and is not responsible for the content of any linked site, any links contained in a linked site, or any changes or updates to such sites. Progress is not responsible for any form of transmission received from any linked site. You acknowledge and agree that Progress is not liable for any loss or damage which may be incurred by You as a result of the availability of third-party vendor resources or external sites.

18. Intellectual Property.

All title and ownership rights in and to NativeScript Sidekick and all Intellectual Property rights therein, and any trademarks or service marks of Progress that are used in connection with NativeScript Sidekick are and shall at all times remain exclusively owned by Progress and its affiliates and licensors. Licensee shall not (and shall ensure that Third Parties do not) challenge, or assist any person or entity in challenging, Progress's right, title, and interest in the Progress Intellectual Property.

19. Third Party Materials

Downloaded Software may contain or be accompanied by certain third-party components which are subject to additional restrictions and certain third-party components may be embedded in, hosted with, or accessible in connection with the Hosted Services. These components, if any, are identified in, and subject to, special license terms and conditions set forth in the "readme.txt" file, the "notices.txt" file, the "Release Notes" file, or the "Third-Party Software" file accompanying the Downloaded Software ("Special Notices"). The Special Notices include important licensing and warranty information and disclaimers. Unless otherwise expressly stated, for any particular third-party component, all third-party components included in connection with or accompanying NativeScript Sidekick may be used solely in connection with the use of the NativeScript Sidekick subject to and in accordance with the terms and conditions of this Agreement and the Special Notices. 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).

20. Publicity.

Progress may, in its sole discretion, publicize Your use of NativeScript Sidekick, and You license to Progress (and its affiliates and necessary sublicensees), all Intellectual Property or other rights required to allow Progress to use Your name, trade name(s), trademark(s), service mark(s), logo(s), and domain name(s) in connection therewith.

21. Commercial Items Notice.

Where Licensee is the U.S. Government or an agency thereof, any/all software and documentation licensed hereunder are/is a "Commercial Item(s)," as that term is defined at 48 C.F.R. Section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. Section 12.212 or 48 C.F.R. Section 227.7202, as applicable. Consistent with 48 C.F.R. Section 12.212 or 48 C.F.R. Sections 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: (i) only as Commercial Items; and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

22. Governing Law.

This Agreement is 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 in Boston, Massachusetts, USA, and the parties hereby irrevocably and unconditionally agree to submit to the exclusive 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. 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.

23. 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.

24. 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.

25. Survival.

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

26. 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.

27. 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.

28. Export Restrictions.

You expressly agree not to utilize NativeScript Sidekick in, or export or re-export any portion of NativeScript Sidekick (including but not limited to any Integrated Software which has been integrated with your Application(s)) to, any country, person, entity, or End-user subject to U.S. export restrictions. You specifically agree not to deploy, export, re-export, or transfer any portion(s) of NativeScript Sidekick in or to, or to use NativeScript Sidekick in, any country to which the U.S. has embargoed or restricted the export of goods or services, including without limitation any country listed in U.S.A. Export Administration Regulation Country Group E-1, or to any national of any such country, wherever located, who intends to transmit or transport NativeScript Sidekick (or any portion thereof) 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 United States Bureau of Industry and Security, U.S. Department of Commerce, nor any other federal agency has suspended, revoked, or denied Your export privileges.

You consent and agree that Your clicking of the "I Accept" button constitutes Your electronic signature, acceptance, and agreement under the United States federal E-SIGN legislation and that such electronic signature will meet the requirements of an original signature as if actually signed by You in writing. Further, You agree that no certification authority or other third-party verification is necessary to the enforceability of Your signature. At our request, any electronically signed document must be re-executed in original form by You. No party hereto may raise the use of an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this Agreement.