**End User License Agreement for Progress Plugin**

**(Last Updated September 6, 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 BY PROGRESS SOFTWARE THROUGH THIS REPOSITORY. 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”). BY DOWNLOADING, INSTALLING, OR OTHERWISE USING THE SOFTWARE (AS DEFINED BELOW) 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.

This Software (as defined below) is licensed to You for use with validly licensed Progress Products only. This Agreement does not grant You a license or any rights to use or distribute Progress Products. To obtain more information about Progress Products and/or to obtain a license for one or more Progress Products please visit [www.progress](http://www.progress).com.

You are granted the following limited license rights while You maintain, and are in compliance with the terms of, a valid license to one or more Progress Product(s) (a “Product License”).

1. Software License

1.1 License Grant. Subject to the terms and conditions set forth in this Agreement, Progress hereby grants to Licensee and Licensee hereby accepts, a limited, non-transferable, perpetual, non-exclusive license (the “License”) to use the Progress Plugin and documentation which this Agreement accompanied (the “Software”) solely in connection with your licensed use of the Progress Product(s).

1.2 Scope of Use. You may use the Software for the purposes of monitoring and managing the performance metrics of the Progress Product(s).

1.3 Source Code for the Software. 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.

2. Term and Termination

This Agreement and the License granted hereunder shall continue for as long as You use the Software in compliance with the terms herein and shall automatically self-terminate upon Your noncompliance with the terms of this Agreement.

3. Intellectual Property

All title and ownership rights in and to the Software and content (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 content, and any trademarks or service marks of Progress that are used in connection with the Software and/or content are and shall at all times remain exclusively owned by Progress and its licensors. Any open source software that may be delivered by Progress embedded in or in association with the Software 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.

4. 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.

5. No Warranty

THE SOFTWARE IS LICENSED ‘AS IS’. YOU BEAR THE RISK OF USING IT. PROGRESS GIVES NO EXPRESS WARRANTIES, GUARANTEES OR CONDITIONS. YOU MAY HAVE ADDITIONAL RIGHTS UNDER YOUR LOCAL LAWS WHICH THIS AGREEMENT CANNOT CHANGE. TO THE EXTENT PERMITTED UNDER YOUR LOCAL LAWS, PROGRESS EXCLUDES THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

6. 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 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’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, or in the case of a free (no fee) License, shall not exceed $5, 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.

7. Indemnity

You agree to indemnify, hold harmless, and defend Progress 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 Your use or misuse of the Software.

8. Governing Law

This License 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 or 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. 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.

9. 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 unless otherwise agreed to in writing by both parties. In cases where this license is being obtained through an approved third party, these terms shall supersede any third party license or purchase agreement.

10. 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.

11. Survival

Any provisions of the Agreement containing license restrictions, warranties and warranty disclaimers, 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.

12. 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.

13. 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.