

Trial Agreement

(Last updated 29 July 2024)

IMPORTANT – PLEASE READ THIS TRIAL AGREEMENT (THE “**AGREEMENT**”) CAREFULLY BEFORE ATTEMPTING TO DOWNLOAD, INSTALL OR USE ANY SOFTWARE, DOCUMENTATION, OR OTHER MATERIALS THIS AGREEMENT RELATES TO. THIS AGREEMENT CONSTITUTES A LEGALLY BINDING AGREEMENT BETWEEN YOU OR THE COMPANY YOU REPRESENT AND ARE AUTHORIZED TO BIND (the “**You**” or “**Your**”) AND PROGRESS SOFTWARE CORPORATION (“**Progress**”, “**we**”, “**our**”). BY DOWNLOADING, INSTALLING OR OTHERWISE USING THE SOFTWARE MADE AVAILABLE BY PROGRESS HEREUNDER, 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. IF YOU CANNOT TRUTHFULLY MAKE THESE REPRESENTATIONS, DO NOT DOWNLOAD, INSTALL, OR OTHERWISE USE THE SOFTWARE.

1. TRIAL LICENSE

1.1 Grant. Progress grants You a personal, non-exclusive, non-transferable license to install and use the Software in object code form (if the Software is made available by Progress to You for download and installation on equipment owned or controlled by You) or access and use the Software in object code form (if the Software is made available by Progress to You via a hosted environment managed by Progress), solely as authorized below (“**Trial License**”). For purposes of this Agreement, the term “**Software**” means: (i) any Progress product or portion thereof that Progress, at its discretion, makes available to You to use on a trial basis pursuant to this Agreement and (ii) any new products, updates, components, features or functionality that Progress provides to You with respect to (i); as well as, any accompanying documentation or other materials with respect to (i) and/or (ii).

1.2 Scope of Use. Under the Trial License granted to You pursuant to this Section 1, You may use the Software during the Term solely for evaluation, demonstration, prototyping, testing and/or proof of concept purposes for (a) authoring and preparing tests, (b) prototyping and developing your applications that interact and operate with the Software and (c) demonstrating your applications (“**Proof of Concept**”). You are not allowed to integrate the Software into end products or use it for any purposes other than the Proof of Concept, including but not limited to commercial or productive purposes. You may use the Software only for the Proof of Concept until expiration of the Trial Term or earlier termination of this Agreement in accordance with the terms hereof. You may not extend the Trial Term by uninstalling and re-installing the Software or by any other means other than our written consent. You may not use the Software in a production environment. If you continue to use the Software, whether in a production or non-production environment, after the Trial License expires or terminates You will be required to pay for a license for the Software (and associated cloud services, if applicable) at our then applicable license and cloud service pricing and accept Progress’ standard terms and conditions associated with purchased licenses to the Software and/or associated cloud services, whether by electronic acceptance or execution of the applicable agreement(s). We may, at our sole discretion, decide whether to offer any maintenance and support for the Software during the Trial Term, and to include any conditions or limits on such maintenance and support. You may not circumvent any technical limitations included in the Software licensed to you on a trial basis.

1.2.1 Third Party Use. You may allow Your contractors (each a “**Permitted Third Party**”) to use the Software solely for Your benefit in accordance with the terms of this Agreement and You are responsible for any such Permitted Third Party’s compliance with this Agreement in such use. Any breach by any Permitted Third Party of the terms of this Agreement will be considered Your breach.

1.2.2 Cloud Environment. If the Software is made available by Progress to You for download and installation on equipment owned or controlled by You, then, for the avoidance of doubt, You may upload the Software onto a private

cloud (i.e., a single-tenant computing infrastructure and environment in Your on-premises data center or supplied by a third party cloud vendor dedicated to You and under Your control), provided that the operation of the Software in the private cloud environment complies with the usage limitations set forth in this Agreement.

1.2.3 Access to Software via a Progress Hosted Service. If the Software is made available by Progress to You via a hosted environment managed by Progress (“**Progress Hosted Service**”), then the additional terms set out in Exhibit A to this Agreement will apply to Your use of the Progress Hosted Service.

1.2.4 Pre-Release Software. If the Software or Progress Hosted Service made available to You by Progress pursuant to this Agreement is designated as alpha, beta, pilot, pre-release, limited release, developer preview, or by a description of similar import (“**Pre-Release**”), then the following additional terms apply:

(a) the Software and/or Progress Hosted Service is in Pre-Release form, which means that (i) it is a test version of unreleased Software or Progress Hosted Service that may contain bugs, defects and errors and (ii) it is not expected to contain the functionality or functions of the version of such Software or Progress Hosted Service that Progress may, at its discretion, make available for commercial distribution;

(b) the Software and/or Progress Hosted Service is subject to changes following Your initial download of the Software and/or access to the Progress Hosted Service;

(c) Progress has sole authority and discretion to determine the period of time of its testing and evaluation of the Software and/or Progress Hosted Service, whether or not such testing has been successfully completed, and whether or not to offer the Software or Progress Hosted Service as a commercial product or service offering;

(d) the Software and/or Progress Hosted Service contain pre-release code that is not at the level of performance and compatibility of a final, generally available product or service offering and may not operate correctly, and Your exercise of any rights under this Agreement with respect to the Software and/or Progress Hosted Service in Pre-Release form is at Your sole discretion and You assume all responsibility for, and risk of, any and all damages that may result from or in connection with the exercise of such rights, including without limitation the loss of any data or other content; and

(e) the Progress Hosted Service, if provided in Pre-Release form, may experience interruptions and extended downtime during which Your Data (as defined in Exhibit A) may not be accessed or may be lost entirely, and You should not rely in any way on the correct functioning or performance of the Progress Hosted Service.

1.3 Assumption of Risk. Use of the Software or Progress Hosted Service is at Your sole discretion and risk. You should take adequate precautionary measures to back up and protect Your data.

1.4 Changes to the Software or Service. Progress reserves the right to modify, suspend or terminate Your access to the Software and/or Progress Hosted Service (or any part thereof) at any time or from time to time, with or without prior notice to You. You agree that Progress shall not be liable to You or any third party for any modification to the Software or Progress Hosted Service, or for any damages that may result or arise out of termination or suspension of Your access to the Software or Progress Hosted Service. You acknowledge that Progress has no express or implied obligation to provide, or continue to provide, the Software or Progress Hosted Service, or any part thereof, now or in the future.

2. LICENSE LIMITATIONS. Except as otherwise expressly permitted in this Agreement, You will not (and will not allow any third party to):

(a) 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 the Software;

- (b) resell, transfer, rent, lease, or sublicense the Software and Your associated rights;
- (c) share the Software with anyone outside of Your organization unless expressly allowed pursuant to Section 1.2 above;
- (d) provide access to the servers the Software is installed on to anyone outside Your organization unless expressly allowed pursuant to Section 1.2 above;
- (e) copy, modify, merge, or distribute copies of the Software or any accompanying documents; or
- (g) access or use the Software or, if applicable, Progress Hosted Service or Content (as defined in [Exhibit A](#)), in order to build a competitive product or service.

Additionally, if the Software is made available by Progress to You for download and installation on equipment owned or controlled by You, then You will not (and will not allow any third party to) post or publish any portion of the Software onto any public (i.e., non-private) software code sharing web sites or similar, including but not limited to, the following: GitHub, BitBucket, Google Code, Pastebin, Codeplex, LaunchPad, Unfuddle, JSFiddle, JSBin. Your use of an internal/private repository (e.g., internal/private GitHub) is acceptable provided that it is restricted to access only by You, Your Personnel and Permitted Third Parties. Notwithstanding the foregoing, if the Software is made available by Progress to You via a hosted environment managed by Progress, then You will not copy, download or store any portion of the Software, Progress Hosted Service or Content in any location outside of the hosted environment managed by Progress.

You will ensure that your employees and Permitted Third Parties using the Software are made aware of the terms of this Agreement, including, without limitation, the limitations set forth in this Section 2.

3. FEES AND TAXES

If the Software licensed pursuant to this Agreement is subject to Your payment of a fee, then You and Progress will enter a written or electronic order document for the Software ("**Order Document**") that will describe the Software, and, if applicable, Progress Hosted Service, licensed to You, the term of the license, usage limitations, applicable fees, and any other details related to the transaction. All fees payable to Progress are payable in the currency specified in the Order Document, or if no currency is specified, in United States Dollars, are due within 30 days from the invoice date and, except as otherwise expressly specified herein, are non-cancellable and non-refundable. Progress may charge You interest at a rate of 1.5% per month (or the highest rate permitted by law, if less) on all overdue payments. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that Progress must pay on such fees, except those based on Progress' income.

4. SUPPORT

4.1 Progress shall have no obligation to support the Software or Progress Hosted Service. However, during the Term of this Agreement and subject to the limitations and restrictions described in the Fair Usage Policy set forth in Section 4.2, Progress may, in its sole discretion, make certain support services available to You. You are encouraged to share feedback related to the Software and/or Progress Hosted Service and submit any product inquiries related to this Program via designated channels that Progress will advise You of from time to time during the Term.

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

5. FEEDBACK

As a participant in the Program, Your feedback is valuable to Progress. You license to Progress (with the right to sublicense through one or multiple tiers) without charge all intellectual property or other rights necessary for Progress to use, share, and commercialize in any way or for any purpose any feedback, suggestions or comments You provide about the Software or Progress Hosted Service, including, without limitation any feedback, suggestions or comments concerning Your experience using the Software, Progress Hosted Service, web sites, documentation, and promotional materials provided to You by Progress as well as any log files, crash reports, or other supporting information pertaining to Your use of the Software or Progress Hosted Service (“**Feedback**”). You will not give Feedback that is subject to any license that requires Progress to license its software or documentation or provide its services to third parties. The rights granted in this paragraph are perpetual and world-wide and survive the termination or expiration of this Agreement.

6. DELIVERY

Progress shall make the Software available to You for downloading in electronic format only. If the Software is provided to You via a Progress Hosted Service, then Progress will provision Your access to the Progress Hosted Service.

7. INTELLECTUAL PROPERTY

7.1 The Software and, if applicable, Progress Hosted Service, is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties and contains confidential information and trade secrets. Progress retains all rights not expressly granted to You in this Agreement. All title and ownership rights in and to the Software and Progress Hosted Service (including but not limited to any images, photographs, animations, video, audio, music, or text embedded in the Software or Progress Hosted Service), the intellectual property embodied in the Software or Progress Hosted Service, and any trademarks or service marks of Progress that are used in connection with the Software or Progress Hosted Service are and shall at all times remain exclusively owned by Progress and its licensors. Any and all rights in the Software or Progress Hosted Service not expressly granted to You hereunder are reserved in all respects by Progress.

7.2 The Software or, if applicable, Progress Hosted Service, may contain or be accompanied by certain third party components which are subject to additional restrictions. 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 “Third Party Software” file, the “Bill of Materials”, or “Combined Product Notices” file accompanying the Software or, in the case of Software made available via a Progress Hosted Service, in the “Release Notes – Third-Party Acknowledgements” file made available in the portal or website associated with the Progress Hosted Service (“**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). Unless otherwise addressed in the Special Notices, any open source software that may be delivered by Progress embedded in or in association with Progress products or services 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.

8. NO WARRANTY

THE SOFTWARE AND PROGRESS HOSTED SERVICE (IF APPLICABLE) 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.

9. 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, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER 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 THIS AGREEMENT SHALL NOT EXCEED \$5.00, 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 YOU OR A THIRD PARTY THAT IS ACCESSED THROUGH THE SOFTWARE OR PROGRESS HOSTED SERVICE (IF APPLICABLE) 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. PROGRESS' AFFILIATES AND LICENSORS, AND THE SUPPLIERS TO PROGRESS, ITS AFFILIATES OR LICENSORS, WILL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HAVE NO LIABILITY TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR DAMAGES, DIRECT OR OTHERWISE, ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, DAMAGES IN CONNECTION WITH THE PERFORMANCE OR OPERATION OF THE SOFTWARE OR PROGRESS HOSTED SERVICE.

10. TERM AND TERMINATION

Unless terminated earlier or unless a different period is specified in an Order Document (if applicable) or other otherwise communicated by Progress on the trial registration website location, this Agreement shall remain in effect for 90 days from either (a) the date of download of the Software (if the Software is made available by Progress to You for download and installation in accordance with this Agreement) or (b) the date Progress provides You with the necessary access credentials to the Progress Hosted Service (if the Software is made available by Progress to You via the Progress Hosted Service) ("**Term**"). The Software licensed under this Agreement may automatically "time out" (that is to say, cease to function) at the end of the Term. Progress may terminate this Agreement at any time upon written notice to You. If the Software is subject to a license fee pursuant to Section 3 above and Progress terminates this Agreement in accordance with the preceding sentence, then Progress will refund to You a pro-rata portion of the fee You paid for the unused portion of the Term. This Agreement shall terminate immediately and automatically if You breach the terms and conditions of this Agreement. If this Agreement is terminated in accordance with the previous sentence, then You will not be entitled to any refund and if You owe Progress any outstanding fees associated with this Agreement, then such fees will become due and payable immediately upon termination. Upon expiration or termination of this Agreement for any reason, all licenses granted to You under this Agreement shall terminate. You must immediately cease use of the Software and destroy all copies of the Software in Your possession or control (and require any Permitted Third Parties to do the same). Upon Progress' request, You will provide a written certification, signed by Your authorized representative, certifying that such actions have been taken.

11. INDEMNITY

You agree to indemnify, hold harmless, and defend Progress, its affiliates, and their respective licensors 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:

- (a) Your use of the Software and/or Progress Hosted Service in breach of this Agreement and/or in violation of any applicable law or regulation; or

(b) any of Your Data, software programs or services that You use in connection with the Software and, if applicable, the Progress Hosted Services or any Feedback that You licensed to Progress, including, without limitation, any claim that Your Data or such software program, services, or Feedback, or any part thereof, infringes, misappropriates, or otherwise violates any copyright, patent, trade secret, trademark, or other legal right of any third party.

12. CONFIDENTIALITY

Except as otherwise provided herein, each party expressly undertakes to retain in confidence all information and know-how transmitted or disclosed to the other that the disclosing party has identified as being proprietary and/or confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be proprietary and/or confidential (“**Confidential Information**”), and expressly undertakes to make no use of such Confidential Information except under the terms and during the existence of this Agreement. The Software and, if applicable, Progress Hosted Service are Progress’ Confidential Information. You will not disclose any information concerning the Software or Progress Hosted Service or any comments regarding the Software or Progress Hosted Service to any third party without the prior written approval of Progress. Each party will maintain the confidentiality of the other party’s Confidential Information with at least the same degree of care that such party uses to protect its own confidential and proprietary information, but not less than a reasonable degree of care under the circumstances. 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 without an obligation to maintain such information in confidence; 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, unless prohibited by law, gives the other party prompt written notice prior to such disclosure and complies with any protective order (or equivalent) imposed on such disclosure. 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 or expiration of this Agreement, provided, however, that trade secrets shall be maintained as such until they fall into the public domain. Nothing in this Section 12 shall be construed to limit Progress’ rights to any Feedback You provide about the Software or Progress Hosted Service pursuant to Section 5 above, and such Feedback will not be subject to the confidentiality terms set forth in this Section 12.

13. COLLECTION AND USE OF DATA

Progress may use tools to deliver certain Software features and extensions, identify trends and bugs, collect and report to Progress activation information, usage statistics (including, without limitation, the number and type of cores and operating environments dedicated to running the Software, the version of the Software and operating system(s) used by You) and track other data related to Your use of the Software and, if applicable, Progress Hosted Service, as further described in the most current version of Progress’ privacy policy located at <https://www.progress.com/legal/privacy-policy> (“**Privacy Policy**”). By Your acceptance of the terms of this Agreement and/or use of the Software or Progress Hosted Service, You authorize the collection, use and disclosure of this data for the purposes provided for in this Agreement and/or the Progress’ Privacy Policy.

14. GOVERNING LAW, NO WAIVER

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 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. 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.

15. 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 document submitted by You 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. The terms and conditions contained in this Agreement shall prevail over any inconsistent provisions in any form or other paper submitted by You.

16. 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.

17. SURVIVAL

Any provisions of the Agreement containing license restrictions, warranties and warranty disclaimers, confidentiality obligations, limitations of liability, indemnity terms and/or audit rights, 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.

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. REPORTS AND AUDIT RIGHTS.

You will grant Progress audit rights twice within any twelve (12) month period upon two weeks written notice, to verify Your compliance with this Agreement. You shall keep adequate records to verify Your compliance with this Agreement.

20. EXPORT RESTRICTIONS

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Software and, if applicable, Progress Hosted Service. You agree that such export control laws, including, without limitation, the U.S. Export Administration Act and its associated regulations, govern Your use of the Software and Progress Hosted Service (including technical data), and You agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, Software and/or any portion of the Progress Hosted Service (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

EXHIBIT A

Terms applicable for Software licensed for access via a Progress Hosted Service

For purposes of this Exhibit A, all references to “Progress Hosted Service” shall include your access to or use of the Software through the Progress Hosted Service.

1. Definitions.

“**Content**” means information (such as 3rd party taxonomies and ontologies) obtained by Progress from its content licensors or publicly available sources and provided to You pursuant to the terms of this Agreement.

“**Your Data**” means electronic data and information submitted by or for You to the Progress Hosted Service or collected and processed by or for You using the Progress Hosted Service, excluding Content and Non-Progress Applications.

“**Non-Progress Applications**” means Web-based or offline software application(s) that is/are provided by You or a third party and interoperates with the Progress Hosted Service, including, for example, an application that is developed by or for You.

2. Your Representations and Warranties. You represent and warrant that:

- a. You have, will obtain, and will maintain all necessary rights to Your Data, and any Non-Progress Applications that You use in connection with the Progress Hosted Service;
- b. Your use of Your Data, and any Non-Progress Application in connection with the Progress Hosted Service does not infringe the intellectual property or other proprietary rights, or privacy rights of any third party;
- c. You will access and use the Progress Hosted Service in a manner which complies with all applicable laws and regulations; and
- d. You will not (and will not permit anyone else to):
 - i. transmit any worms or viruses or any code of a destructive nature to, from, or through the Progress Hosted Service;
 - ii. use the Progress Hosted Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights;
 - iii. interfere with or disrupt the integrity or performance of the Progress Hosted Service, Content or third-party data contained therein;
 - iv. attempt to gain unauthorized access to any portion of the Progress Hosted Service, Content or its related systems or networks;
 - v. permit direct or indirect access to or use of the Progress Hosted Service or any Content in a way that circumvents any contractual usage limits;
 - vi. modify, adapt or hack the Progress Hosted Service;
 - vii. access or use the Progress Hosted Service in any way that could harm the Progress Hosted Service or impair anyone else’s use of the Progress Hosted Service;
 - viii. access or use the Progress Hosted Service to send “spam” (i.e., unsolicited bulk or commercial messages) or otherwise make available any offering designed to violate these terms (e.g., denial of service attacks, etc.);
 - ix. use or access the Progress Hosted Service in a manner other than as expressly permitted herein without the express written permission by Progress;
 - x. copy the Progress Hosted Service or any part, feature, function or user interface thereof;

- xii. copy Content except as permitted herein or in the Order Document or documentation associated with the Progress Hosted Service; or
 - xii. frame or mirror any part of the Progress Hosted Service or Content, other than framing on Your own intranets or otherwise for Your own internal business purposes consistent with the limitations of this Agreement.
- 3. **Your Responsibilities.** You will (a) be responsible for Users' compliance with the Agreement, (b) be responsible for the accuracy, quality, and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Progress Hosted Service or Content, and notify Progress promptly of any such unauthorized access or use; and (d) comply with the terms of service of Non-Progress Applications that You use in conjunction with the Progress Hosted Service or Content.
- 4. **License by You to Host Your Data and Non-Progress Applications.** You grant Progress (and its affiliates and necessary sublicensees) a worldwide, limited term license to host, copy, transmit and display Your Data, and any Non-Progress Applications and program code created by or for You using the Progress Hosted Service, as necessary for Progress to provide the Progress Hosted Service in accordance with this Agreement. Subject to the limited licenses granted to Progress pursuant to this Agreement, Progress acquires no right, title or interest from You or Your licensors under this Agreement in or to Your Data or any Non-Progress Application or program code.
- 5. **Your Data.**
 - a. Storage of Your Data. The Progress Hosted Service may allow You to store, process, access, and query Your Data. As this is a Trial License for Proof of Concept purposes only, You agree that You are solely responsible for (and that Progress has no responsibility to You or to any third party for) any of Your Data that you upload, create, transmit or display while using the Progress Hosted Service and for the consequences of Your actions (including any loss or damage which Progress may suffer) by doing so. You further acknowledge that You upload Your Data at Your own risk.
 - b. Your Data Removal. Progress does not pre-screen Your Data, but Progress and its designees have the right (but not the obligation) in their sole discretion to refuse or remove any of Your Data that is available via or stored in the Progress Hosted Service. Progress may, but has no obligation to, remove Your Data 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 this Agreement.
 - c. Transmission of Your Data. You understand that the technical processing and transmission of the Progress Hosted Service, including Your Data, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. You acknowledge that to protect Your transmission of Content to the Progress Hosted Services, it is Your responsibility to use a secure encrypted connection to communicate with and/or utilize the Progress Hosted Services. 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 Progress Hosted Service. This means that if You choose to use the Progress Hosted Service, Your Data will be stored on and accessed through one or more such third party services.
 - d. Deletion of Your Data. Progress will have the right to delete Your Data at any time during the term of the Progress Hosted Service or thereafter. You may backup Your Data to Your own or a third party system, but otherwise Progress has no obligation to hold, export, or return Your Data. Progress has no liability for the deletion of Your Data.
- 6. **Your Account.**
 - a. Account Set Up. You may access or use the Progress Hosted Service only after You have accepted this Agreement.

- b. **Provisioning Access.** Progress will provision access to the Progress Hosted Service by utilizing an OpenID Connect based method or such other provisioning method as Progress, at its discretion, deems appropriate. You are solely responsible for all activity under Your Progress Hosted Service subscription. All Users using the Progress Hosted Service under Your Progress Hosted Service subscription must comply with this Agreement. Progress will not be liable for any loss resulting from an unauthorized person using a User's Progress Hosted Service account username, password or any other assigned credentials.
- c. **Fair Usage.** Progress may limit or terminate Your access to any or all of the Progress Hosted Service if Your use of the Progress Hosted Service is determined by Progress, in its sole discretion, to be excessive, including but not limited to use with respect to: upload, download, or processing bandwidth, and/or Your Data storage.

7. **Service Levels**

- a. Except as otherwise expressly stated in an Order Document, Progress shall be under no obligation to provide technical support, to make any tests, revisions, or repairs to the Progress Hosted Service, to maintain the Progress Hosted Service at any customer-desired level of performance, to keep the Progress Hosted Service in operating condition, or to market or license the Progress Hosted Service.
- b. The Progress Hosted Service may be periodically inaccessible for reasons including maintenance updates, power outages, system failures, extended downtime and other interruptions. During such periods, You may be unable to access or use all or a portion of the Progress Hosted Service and some or all of Your Data may be deleted. If Progress determines that an outage or interruption may cause risk to the Progress Hosted Service, Progress may suspend the Progress Hosted Service.

8. **Security.** Progress may, but shall have no obligation to, apply security technologies and procedures to help protect against unauthorized access or use of the Progress Hosted Service. Progress does not guarantee the success of such technologies and procedures. You are solely responsible for the security, protection and backup of Your Data, and any Non-Progress Applications or other materials that You use in connection with the Progress Hosted Service.

9. **Privacy.**

- a. By using the Progress Hosted Service, You consent to the following and agree that, with respect to the Progress Hosted Service, Progress may access, collect, use, and/or disclose information about You, Your account, Your operating environment (including, but not limited to, information about the hardware and software utilized by You in connection with the Progress Hosted Service), Your Data, and/or the content of Your, or Your users', communications in order to:
 - i. provide, operate, support, and improve the Progress Hosted Service;
 - ii. identify trends and bugs, collect activation information, usage statistics and track other data related to Your use of the Progress Hosted Service as further described in the most current version of Progress' Privacy Policy;
 - iii. comply with the law or respond to lawful requests or legal process; or
 - iv. protect the rights or property of Progress or our customers, including the enforcement of Progress' agreements or policies governing the use of the Progress Hosted Service.
- b. Personal data collected or otherwise processed by Progress in the delivery and/or performance of the Progress Hosted Service 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.
- c. If You collect, store, or process personal information when using the Progress Hosted Service, You agree to comply with all privacy and data protection laws, taking into account the nature and origin of the information to be processed, as well as the features and limitations of the Progress Hosted Service as described in this Agreement or as otherwise provided to You.

10. **Suspension of Service.** Progress may suspend or cancel Your use of and access to all or any part of the Progress Hosted Service at any time, for any reason and in its sole discretion; provided, however, that if Progress cancels Your use of and access to the Progress Hosted Service for reasons other than Your breach of the terms of the Agreement, and You

have paid Progress any fees for access to the Progress Hosted Service in accordance with Section 3 of the Agreement, then Progress will refund a pro-rata portion of such fees for the unused period of Your subscription period for the Progress Hosted Service.

11. **Use of Third Party Services and Links to Third Party Sites.** 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 Progress Hosted Service. Progress is not responsible for the services provided by such third party vendors. The Progress Hosted Service may also 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.
12. **Modifying the Terms; Additional Terms.** Progress may modify this Exhibit A at any time by notifying You by email of the modified Exhibit A and providing You with a copy of the same or a link to where You can locate it on Progress' website. If You do not agree with the modifications, You must immediately stop using the Progress Hosted Service. If You have paid a fee for the Progress Hosted Service in accordance with Section 3 of the Agreement, then You may notify Progress in writing within ten (10) business days of receipt of the modified Exhibit A that You do not agree to the modifications and wish to cancel Your subscription and Progress will refund to You a pro-rata portion of the fees paid by You to Progress for the unused portion of Your subscription. Your continued use of the Progress Hosted Service following any modification to this Exhibit A constitutes acceptance of the modified Exhibit A.
13. **Notices.** Except as otherwise expressly provided herein, Progress may provide You with notices in any manner Progress chooses, including by email or posting any such notices on a Progress portal or website for the Progress Hosted Service. Notices provided to You via e-mail will be deemed given and received on the transmission date of the e-mail. Notices provided via posting on a Progress portal or web site will be deemed given on the date they are posted. Notices to Progress shall be provided to legal@progress.com.

