



End User License Agreement for Progress Automate MFT

READ THIS END USER LICENSE AGREEMENT (“EULA”) BEFORE ACCESSING AND/ OR USING ALL OR ANY PORTION OF THE Progress Automate MFT. BY DOING SO YOU HAVE ACCEPTED THIS EULA, YOU AGREE ON BEHALF OF YOURSELF AND YOUR COMPANY (IF APPLICABLE) TO THE TERMS STATED HEREIN. IF IT IS THAT YOU DO NOT AGREE WITH THESE TERMS, OR DO NOT HAVE THE AUTHORITY TO BIND YOUR COMPANY, SEND AN EMAIL TO US (TO THE EMAIL ADDRESS INFORMED IN THE COMMUNICATION YOU RECEIVED FROM US) OR TO THE AUTHORIZED RESELLER INFORMING US TO THAT EFFECT, AND DO NOT ACCESS OR USE ALL OR ANY PORTION OF THE Progress Automate MFT. UNLESS OTHERWISE SPECIFIED IN THIS EULA, PROGRESS SOFTWARE CORPORATION IS THE LICENSOR OF THE PRODUCT. THE LICENSOR MAY BE REFERRED TO HEREIN AS “Licensor”, “we”, “us”, or “our”. IF YOU ARE AGREEING TO THIS EULA ON BEHALF OF YOURSELF IN YOUR INDIVIDUAL CAPACITY, THEN YOU ARE THE LICENSEE AND YOU MAY BE REFERRED TO HEREIN AS “Licensee”, “you”, or “your”. IF YOU ARE AGREEING TO THIS EULA ON BEHALF OF YOUR COMPANY, THEN YOUR COMPANY IS THE LICENSEE AND ANY REFERENCES TO “Licensee”, “you”, or “your” WILL MEAN YOUR COMPANY.

This EULA includes the following sections:

1. [GENERAL TERMS AND CONDITIONS](#) – *these terms apply to all Products;*
 - 2.A. [TERMS FOR ON-PREMISE PRODUCTS](#) – *these terms apply to Products that you or Permitted Third Parties install on computers;*
 - 2.B. [TERMS FOR HOSTED SERVICES](#) – *these terms apply to Products that we host;*
3. [PRODUCT FAMILY SPECIFIC TERMS](#) – *these terms apply to **all** Products that are part of the family of Products referenced in this section; and*
4. [PRODUCT SPECIFIC TERMS](#) – *these terms apply to **specific** Products referenced in this section.*

1. GENERAL TERMS AND CONDITIONS

1.1. Definitions.

1.1.1. “**Affiliate**” means with respect to a party, any entity which directly or indirectly controls, is controlled by, or is under common control with such party, where “control” means the power, directly or indirectly, to direct, or to cause the direction of, the management and policies of an entity, through majority ownership of voting securities or equity interests.

1.1.2. “**Agentic AI Services**” means goal-oriented artificial intelligence systems or workflows that perform actions or tasks on your behalf and on behalf of your Authorized Users in a supervised or autonomous manner that might be created, orchestrated, or initiated within a GenAI Functionality. When enabled, Agentic AI Services may (a) call external tools, APIs, or systems, (b) retrieve or write data, or (c) initiate tasks or transactions on your behalf (e.g., “connectors,” “actions,” “tools,” “extensions,” or similar).

1.1.3. “**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.

1.1.4. **“Authorized Reseller”** means a third party who is not our Affiliate and who is authorized by us or our Affiliate to resell the Product.

1.1.5. **“Authorized User”** means you, your employee or a Permitted Third Party.

1.1.6. **“Confidential Information”** means any and all data, information or materials, in any form and however conveyed, disclosed by either party, including without limitation that which relates to the discloser’s, or discloser’s Affiliates’, patents, patent applications, research, technology in use, technological developments, inventions, processes, designs, engineering, formulae, algorithms, computer software (including source and object code), hardware configurations, reports, products, product plans, business plans, services, prices and other commercial terms, customers, marketing strategies and plans, and finances, which data, information and/or materials the discloser designates in writing to the recipient to be confidential or proprietary or which would, due to the nature thereof or the circumstances that surround its disclosure, appear to a reasonable person to be confidential or proprietary, together with all analyses, compilations, studies, or other documents or records to the extent that they contain, reflect, or are generated from such data, information or materials.

1.1.7. **“Documentation”** means any technical instructions or materials describing the operation of the Product made available to you (electronically or otherwise) by us for use with the Product, expressly excluding any marketing websites, user blogs, reviews or forums.

1.1.8. **“GenAI Functionality”** means generative artificial intelligence functionality including any functionality that uses generative models to produce text, images, videos, or other forms of data.

1.1.9. **“Hosted Services”** means computer software program(s), content and related services provided by us on a software-as-a-service basis through computers we or our Affiliates or our respective contractors (including cloud infrastructure suppliers) control.

1.1.10. **“Input”** means all data and content, including data files, written text, keys, computer software, music, audio files or other sounds, photographs, videos, images or other data, that are provided to us by you or on your behalf including by Authorized Users through the use of the GenAI Functionality.

1.1.11. **“Intellectual Property Rights”** means any and all current and future (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) registrations, applications, renewals, extensions, or reissues of any of (a) to (e) , in each case, in any jurisdiction throughout the world.

1.1.12. **“On-Premise Product(s)”** means computer software program(s) provided to you to download, install and use on computer(s) controlled directly or indirectly by you.

1.1.13. **“Order”** means a written or electronic order document or combination of documents entered into between you and us (or our Affiliate or an Authorized Reseller) for the Product. Unless an Order says something different, each Order will be governed by the terms of this EULA and include the name of the Product being licensed and any usage limitations, applicable fees, and any other details related to the transaction.

1.1.14. **“Our Technology”** means any software, code, tools, libraries, scripts, application programming interfaces, templates, algorithms, data science recipes (including any source code for data science recipes and any modifications to such source code), data science workflows, user interfaces, links, proprietary methods and systems, know-how, trade secrets, techniques, designs, inventions, and other tangible or intangible technical material, information and works of authorship underlying or otherwise used to make available the Product, including, without limitation, all Intellectual Property Rights therein and thereto.

1.1.15. **“Output”** means any data, text, sound, video, image, code, or other content generated by the GenAI Functionality, or the operation of the Product in conjunction with the GenAI Functionality, in response to Input.

1.1.16. **“Permitted Third Party”** has the meaning given in section 1.2.3 (Third Party Use).

1.1.17. **“Product”** means the On-Premise Product(s) or Hosted Services, as applicable, identified in an Order, and any Updates.

1.1.18. **“Third-Party Apps and Services”** has the meaning give in section 1.7.3.2 (Using Third-Party Apps and Services).

1.1.19. **“Update”** means any update, enhancement, error correction, modification or new release to the Product that we make available to you.

1.2. **General License Terms, Restrictions and Order of Precedence.**

1.2.1. **General License Terms.** The Product is licensed, not sold, to you by us under the terms of this EULA and the Order. The scope of license granted by us to you for the Product is set out in section 3 (Product Family Specific Terms) and section 4 (Product Specific Terms).

1.2.2. **Authorized Users.** Anything your Authorized Users do or fail to do will be considered your act or omission, and you accept full responsibility for any such act or omission to the extent you would be liable if it were your act or omission.

1.2.3. **Third Party Use.** You may allow your consultants, agents, contractors and outsourcing service providers (each a **“Permitted Third Party”**) to use the Product(s) licensed to you hereunder solely for your benefit in accordance with the terms of this EULA and you are responsible for any such Permitted Third Party’s compliance with this EULA in such use. Any breach by any Permitted Third Party of the terms of this EULA will be considered your breach. For the avoidance of doubt, you acknowledge and agree that, in accordance with section 1.2.4(i) below, your Affiliates are not considered Permitted Third Parties as defined in this section 1.2.3 unless specifically authorized elsewhere in this EULA or the Order.

1.2.4. **Restrictions.** Except as otherwise expressly permitted in this EULA, you will not (and will not allow any of your Affiliates or any third party to):

(a) copy, modify, adapt, translate, or otherwise create derivative works of the Product, Documentation, or any software, services, or other technology of third party vendor(s) or hosting provider(s) that we or our Affiliate utilize;

(b) disassemble, decompile or “unlock”, decode or otherwise reverse translate or engineer, or attempt in any manner to reconstruct or discover the source code or underlying structure, ideas, or algorithms of the Product except as expressly permitted by law in effect in the jurisdiction in which you are located;

(c) rent, lease, sell, distribute, pledge, assign, sublicense or otherwise transfer or encumber rights to the Product;

(d) make the Product available on a timesharing or service bureau basis or otherwise allow any third party to use or access the Product;

(e) use the Product to provide outsourced services, facility management services, act as or operate a service bureau, or provide information, data processing, subscription or hosting services for another party;

(f) remove or modify any proprietary notices, legends, or labels on the Product or Documentation;

(g) use or access the Product in a manner that: (i) violates any Applicable Laws; (ii) violates the rights of any third party; (iii) purports to subject us or our Affiliates to any other obligations; (iv) could be fraudulent; and/or (v) is not permitted under this EULA;

(h) use the Product to design, test, support or market products that are competitive with and/or provide similar functionality to the Product; or

(i) permit your Affiliates to access or use the Product unless specifically authorized elsewhere in this EULA or the Order.

1.2.5. **Non-Literal Elements.** The Product, Our Technology, and the Documentation include “non-literal” elements that reflect and embody creative choice, expression and ordering as a valuable aspect of our business offerings, such as program architecture, structure, sequence and organization, programming languages, application interfaces, operational modules, user interfaces, vocabulary, syntax and output designs. You agree that you shall not make, nor shall you engage or enable any third party to make, substantial use of these non-literal elements separately from your ongoing licensed use of the Product.

1.2.6. **Limitations on Evaluation or Trial Licenses.** If the Product is licensed to you on an evaluation or trial basis, then you may use the Product only for such purposes until the earlier of: (a) the end of the evaluation period, if any, specified in the Order, this EULA or otherwise communicated by us to you at the time of delivery; or (b) the start date of a paid for license to the Product; or (c) termination in accordance with the terms of this EULA. You may not extend the evaluation period by uninstalling and re-installing the Product(s) or by any other means other than our written consent. You must not use the Product in a production environment. You will be required to pay for a license for the Product at our then applicable license price if you continue to use the Product, whether in a production or non-production environment, after the evaluation license expires or terminates, and the terms and conditions of the EULA in effect at that time will apply to your continued use of the Product. A Product licensed to you on an evaluation or trial basis may be subject to one or more usage limits specified in section 3 (Product Family Specific Terms), section 4 (Product Specific Terms), the Order or otherwise communicated at the time of delivery (including posting of such limits at the location where you download the Product for evaluation). We may, at our sole discretion, decide whether to offer any maintenance and support for the Product during the evaluation period, and to include any conditions or limits on such maintenance and support. You may not circumvent any technical limitations included in the Product licensed to you on an evaluation or trial basis.

1.2.7. **Technical Preview.** We may, as part of an evaluation or trial license or a purchased license, invite you to access and try certain software or hosting services, or features thereof, that are designated as alpha, beta, pilot, early access, pre-release, limited release, labs, developer preview, technical preview, or by a description of similar import (“**Technical Preview Items**”). You may accept or decline any such trial in your sole discretion. Technical Preview Items are for evaluation purposes only, and not for production use, are not considered part of the generally available Product and may be subject to additional terms. If you elect to participate in a trial of Technical Preview Items, then you are expected to provide timely and constructive feedback during the trial period for the Technical Preview Items. We will exercise commercially reasonable efforts to support you in your use of the Technical Preview Items; however, we make no commitments regarding response times or the implementation or availability of updates, error corrections or work arounds associated with the Technical Preview Items. If we do, in our sole discretion, make any updates or error corrections to the Technical Preview Items available to you, then they will be subject to the terms and conditions of this EULA, and more specifically the terms of this section 1.2.7. THE WARRANTIES SET FORTH IN THE EULA DO NOT APPLY TO TECHNICAL PREVIEW ITEMS, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. Technical Preview Items are provided “AS IS” and any use of Technical Preview Items by you is at your own risk. We will have no liability for any harm or damages arising out of or in connection with the Technical Preview Items. Unless we, at our discretion, specify a longer or shorter period in writing, the trial period for the Technical Preview Items will end (a) ninety (90) days after you receive access credentials to, or download, the Technical Preview Items, or (b) if applicable, when a version becomes generally available, whichever comes first. We may discontinue Technical Preview Items at any time in our sole discretion and may never make them generally available.

1.2.8. **Redistribution.** If applicable, the Order or section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms) grants you the express right to redistribute or offer access to all or a portion of the Product (“**Redistributables**”), then, in conjunction with any such grant, you must comply with any limitations or requirements specified in the Order, section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms), as applicable, and you must distribute or offer access to the Redistributables subject to a license agreement or terms of use

between you and each third party receiving or accessing the Redistributables (“**your customer**”) that: (a) protects our interests consistent with the terms contained in this EULA, (b) prohibits your customer from any further distribution of the Redistributables (unless expressly permitted pursuant to section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms)), (c) includes a limitation of damages clause that, to the maximum extent permitted by applicable law, disclaims on behalf of us, our Affiliates or our or their respective licensors, suppliers or Authorized Resellers, liability for any and all damages, whether direct, special, incidental or consequential damages, (d) contains terms substantially similar to those in subparts (a) through (g) of section 1.2.4 (Restrictions), section 1.5.1 (Export Compliance) and section 1.5.2 (U.S. Government Customers), and (e) includes a notice substantially similar to section 1.2.9 (Third Party Notices).

1.2.9. Third Party Notices. The Product may contain or be accompanied by certain third-party components which are subject to additional restrictions. These components, are identified in, and subject to, special license terms and conditions which, in the case of On-Premise Product(s), are set out in the “readme.txt” file, the “notices.txt” file, or the “Third Party Software” file, or, if applicable, software bill of Materials (SBOM) accompanying the Product or portions thereof, and in the case of Hosted Services, are set out in the third-party license agreement or notices that comes with the third-party component or is otherwise provided on the web page on which such third-party component is made available (“**Special Notices**”). The Special Notices include important licensing and warranty information and disclaimers. Unless otherwise expressly stated for a given third-party component, all such third-party components may be used solely in connection with the use of the Product subject to and in accordance with the terms and conditions of this EULA and the Special Notices. In the event of conflict between the Special Notices and the other portions of this EULA, the Special Notices will take precedence (but solely with respect to the third-party component(s) to which the Special Notice relates). You acknowledge and agree that, to the extent permitted by the Special Notices, you shall solely use the third-party components referenced in this section 1.2.97 in conjunction with the Product as intended by us. To the extent that the Special Notices prohibit us from restricting your use of such third-party components to use only in conjunction with the Product, you further acknowledge and agree that we are not responsible for any loss, costs, or damages directly or indirectly incurred due to your use of such third-party components in ways not intended or contemplated by us. We are not responsible for and expressly disclaim all warranties of any kind with respect to such use of such third-party components in ways not intended or contemplated by us.

1.2.10. Order of Precedence between EULA and Order. If there is any conflict between the terms and conditions in the Order and the terms and conditions of this EULA, or if the Order changes any of the terms of this EULA, the terms and conditions of the Order will apply, except if the Order is between you and an Authorized Reseller, or the Order is issued/generated by you. In the case where the Order is between you and an Authorized Reseller, the terms of the Order will apply subject to the following: (a) any terms and conditions in the Order imposing obligations on the Authorized Reseller that are in addition to or different from the obligations we have to you pursuant to this EULA will be born solely by the Authorized Reseller and our obligations to you and limits on our liability will be governed solely by the terms and conditions of this EULA and (b) any terms and conditions that conflict with or would otherwise alter any of the following under this EULA will have no effect unless expressly agreed to in a written instrument executed by us: our ownership rights, yours and our confidentiality obligations, your export compliance obligations, limitations on your rights as a U.S. Government customer (if applicable), our audit rights, restrictions on your right to assign or governing law and jurisdiction. In cases where the Order is issued/generated by you, the terms and conditions of section 1.19.2 (Entire Agreement) governing a purchase order or other document you supply in connection with this EULA, shall apply to such Order.

1.2.11. Order of Precedence within EULA. If there is any conflict among the terms and conditions of this EULA, or if a section changes the terms of another section within this EULA, the order of precedence will be as follows: first, section 4 (Product Specific Terms) (if any); second, section 3 (Product Family Specific Terms) (if any); third, section 2.A (Terms for On-Premise Products) and/or section 2.B (Terms for Hosted Services), as applicable; and fourth and finally, section 1 (General Terms and Conditions).

1.3. License Types.

1.3.1. **Overview of License Types.** The license type for the Product will, unless otherwise specified in this EULA, be subscription. This will be confirmed in the Order or will be the default license type listed in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms).

1.3.2. **Perpetual License Type.** THIS SECTION IS NOT APPLICABLE.

1.3.3. **Term License Type.** THIS SECTION IS NOT APPLICABLE.

1.3.4. **Subscription License Type.** Your license to use the Product will continue until the expiration of the subscription period identified in the Order unless earlier terminated in accordance with the terms of this EULA. The procedure for renewing your license to the Product is set out in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms). If you upgrade your subscription to the Product, the upgrade will take effect immediately and you will be charged and must pay the applicable fee, and the term of your then-current subscription period may be extended, as described at the time you upgrade. You may not downgrade a subscription to the Product.

1.4. **Our Business Principles.** We will apply the principles set out in our Code of Conduct and Business Ethics (published on our website at <https://investors.progress.com/corporate-governance>) in our performance under this EULA.

1.5. **Export Compliance and U.S. Government Customers.**

1.5.1. **Export Compliance.** Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Products and Our Technology. 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 Product and Our Technology (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, Product and/or Our Technology (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.

1.5.2. **U.S. Government Customers.** If the Product and/or Our Technology is/are being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the U.S. Government’s rights in the Product and/or Our Technology will be only as set out herein. The Product, Our Technology and Documentation are “commercial items” as that term is defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product and/or Our Technology and such Documentation with only those rights set out herein.

1.6. **IP Ownership and Feedback.**

1.6.1. **IP Ownership.** The Product, Our Technology, Documentation, and all other current or future intellectual property developed by us or our Affiliates, and all worldwide Intellectual Property Rights in each of the foregoing and all Updates, upgrades, enhancements, new versions, releases, corrections, and other modifications thereto and derivative works thereof, are the exclusive property of us or our Affiliates or our or their licensors or suppliers. Except for the rights and licenses expressly granted herein, all such rights are reserved by us and our Affiliates and our or their licensors and suppliers. All title and Intellectual Property Rights in and to the content that may be accessed through use of the Product is the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This EULA grants you no rights to use such content.

1.6.2. **Feedback.** If you provide us any ideas, thoughts, criticisms, suggested improvements or other feedback related to the Product and/or Our Technology (collectively “Feedback”) you own the Feedback and you grant to us a worldwide, royalty-free, fully paid, perpetual, irrevocable license to use, reproduce, modify, translate, distribute, perform, display, import, sell, license, offer for sale, make, have made and otherwise exploit the Feedback in any form, media, or technology, whether now known or hereafter developed, and to allow others to do the same without restriction or obligation of any kind, on account of Confidential Information, intellectual property rights or otherwise,

and may incorporate into our products or services any service, product, technology, enhancement, documentation or other development (“Improvement”) incorporating or derived from any Feedback with no obligation to license or to make available the Improvement to you or any other person or entity. This is true whether you provide the Feedback through use of the Product or through any other method of communication with us, unless we have entered into a separate agreement with you that provides otherwise.

1.6.3. Security Vulnerability Reporting. Any security vulnerabilities you identify in the Product(s) and/or Our Technology shall be reported to us in accordance with our policies and procedures for reporting security vulnerabilities (currently published on our website at <https://www.progress.com/security/vulnerability-reporting-policy> and which may be relocated at our discretion). Any information you provide regarding security vulnerabilities in the Product(s) and/or Our Technology is also considered Confidential Information and subject to the terms and conditions of section 1.12 (Confidentiality). In addition to the restrictions set forth in section 1.2.4 (Restrictions), you will not publish information regarding any bugs, security vulnerabilities, or defects in the Product(s) and/or Our Technology, in each case, without our prior written consent.

1.7. GenAI.

1.7.1. GenAI Functionality Integrated into a Product. This section 1.7.1 applies solely to the extent some form of GenAI Functionality is integrated by us into a Product.

1.7.1.1. Policies. You represent and warrant that your use, the use by your Authorized Users, or any other use on your behalf, of the GenAI Functionality, will not, nor cause us to, violate any applicable law, or applicable policies or obligations (such as acceptable use policies or codes of conduct) imposed on us by any third-party provider of large language models or other artificial intelligence models which have been incorporated into the GenAI Functionality, as identified in the Documentation or any other location expressly referenced in sections 3 or 4 of this EULA.

1.7.1.2. Conditions to Use of the GenAI Functionality.

1.7.1.2.1. Input. You are solely responsible for any Input. You will secure and maintain all rights and secure all permissions (where applicable) to the Input necessary for us to provide the GenAI Functionality to you without violating the rights of any third party or otherwise obligating us to you or to any third party. We do not and will not assume any obligations with respect to the Input or to the use of the GenAI Functionality by you or on your behalf, or by Authorized Users, other than as expressly set forth in this EULA or as required by law.

1.7.1.2.2. Suspension. We may limit or suspend use of the GenAI Functionality if: (1) it is reasonably needed to prevent unauthorized access to Input; (2) you do not abide by the policies referenced in section 1.7.1.1 above; or (3) if any third-party provider of large language models or other artificial intelligence models which have been incorporated into the GenAI Functionality suspends or indicates that it may suspend our access to the services used in connection with the GenAI Functionality, including as a result of your action or inaction in connection with your use of the GenAI Functionality.

1.7.1.2.3. Restrictions on Use. The GenAI Functionality shall not be used by you or on your behalf, or by Authorized Users, to (i) attempt to bypass, exploit, defeat, or disable Product restrictions, including any technical limitations; (ii) use the GenAI Functionality in a manner not consistent with the intended purposes described in the Documentation; (iii) upload, transmit through or post Personal Health Information (PHI), Personal Data (as defined in the DPA) or sensitive data to the GenAI Functionality; (iv) use the GenAI Functionality to make any automated decisions or take any automated action against any individual which may produce legal effects or significantly affect the individual; (v) use the GenAI Functionality to generate Output for the express purpose of creating synthetic training data to develop or train artificial intelligence models or systems that have substantially similar functionality to the GenAI Functionality.

1.7.1.2.4. Extracting Data. You may not use web scraping, web harvesting, or other data extraction methods to extract data from the GenAI Functionality.

1.7.1.3. Data Use and Access for Abuse Monitoring. As part of providing the services in connection with the GenAI Functionality, we and certain third-party providers of large language models or other

artificial intelligence models which have been incorporated into the GenAI Functionality may temporarily store Inputs and Output, to monitor for and prevent abusive or harmful uses or outputs of the service.

1.7.1.4. **Our Indemnity Exclusion; Output Disclaimer.** Our defense and indemnity obligations in this EULA will not apply with respect to the GenAI Functionality or any Output. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA, ALL OUTPUT IS PROVIDED 'AS IS' AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WHATSOEVER.

1.7.1.5. **Your Indemnity Obligation for the GenAI Functionality.** To the extent permitted by applicable law, you will defend us and our Affiliates, and our and their respective officers, directors, employees, and agents from and against any and all third party claims, lawsuits, and proceedings that arise or result from (a) provision of Inputs in which sufficient rights are not secured; (b) Output generated in connection with Inputs that, alone or in combination, infringe or misappropriate another party's intellectual property rights; (c) Output that you know or reasonably should know may infringe or misappropriate another party's intellectual property rights; (d) use of Output in a manner that infringes upon a third party's trademark rights; or (e) use of the Output after notice to stop using the Output is received.

1.7.1.6. **High-Risk Disclaimer.** The GenAI Functionality is not designed or intended to support any use in which a service interruption, defect, error, or other failure of the GenAI Functionality could result in the death or serious bodily injury of any person or in physical or environmental damage (collectively, "**High-Risk Use**"). Any High-Risk Use of the GenAI Functionality is at your own risk. You agree to defend, indemnify and hold us harmless from and against all damages, costs and attorneys' fees in connection with any claims arising from a High-Risk Use associated with the GenAI Functionality, including any claims based in strict liability or that we were negligent in designing or providing the GenAI Functionality. The foregoing indemnification obligation is in addition to any other defense or indemnification obligations set forth herein and is not subject to any limitation of, or exclusion from, liability contained herein.

1.7.1.7. **Professional Advice Disclaimer.** You acknowledge that the GenAI Functionality (1) is not designed, intended or made available as a medical device(s), and (2) is not designed or intended to be a substitute for professional advice, including medical diagnosis, treatment, or judgment and should not be used to replace or as a substitute for professional advice, including medical diagnosis, treatment, or judgment. You are solely responsible for displaying and/or obtaining appropriate consents, warnings, disclaimers, and acknowledgements to Authorized Users.

1.7.1.8. **AI Changes.** GenAI Functionality can be modified, limited, suspended or terminated at any time by us in our sole discretion with or without notice to you.

1.7.2. **GenAI Functionality Integrated by You ("bring your own license").** This section 1.7.2 applies solely to the extent you do not use, nor enable any GenAI Functionality integrated by us into the Product. If the Product Documentation specifies the possibility for you to integrate other forms of GenAI Functionality into the Product, then the Product will include a configuration to enable the integration. You acknowledge that a separate license or subscription access to other forms of GenAI Functionality governed by the terms and conditions of a license agreement from its respective licensor will be required for use and access of such GenAI Functionality integrated with the Product. You will be responsible for complying with the terms of such license agreement. You acknowledge and accept that we are not a party to the license agreement between you and the licensor for other forms of GenAI Functionality, and as a result we do not have any control over it or its availability, and we disclaim any and all liabilities for any output, error, damages, loss, etc., or any other result of your use of such GenAI Functionality integrated with the Product.

1.7.3. **Agentic AI Services.** This section 1.7.3 applies solely to the extent the Product includes Agentic AI Services capabilities.

1.7.3.1. **Your Responsibility for Agentic AI Services.** You are solely responsible for: (a) the actions and tasks performed by an Agentic AI Service on your behalf and on behalf of Authorized Users; (b) determining

whether the use of an Agentic AI Service is fit for its use case; (c) authorizing an Agentic AI Service's access and connection to data, applications, and systems; and (d) exercising judgment and supervision when and if an Agentic AI Service is used in production environments to avoid any potential harm the Agentic AI Service may cause. The actions or tasks that an Agentic AI Service performs are not generated Output.

1.7.3.2. Using Third-Party Apps and Services. The Agentic AI Services may allow you to access products, services, websites, links, content, material, integrations, bots or applications from independent third parties ("**Third-Party Apps and Services**") and may allow or require you to share your content or data with such Third-Party Apps and Services that you access through the Agentic AI Services. The Third-Party Apps and Services may present you with a privacy policy or require you to accept their terms before you can install or use the Third-Party App or Service. You should review the third-party terms and privacy policies before acquiring, using, requesting, or linking your content or data to any Third-Party Apps and Services. Any third-party terms do not modify the terms of this EULA, or any other terms or policies incorporated herein by reference. We do not license any intellectual property to you as part of any Third-Party Apps and Services. You agree to assume all risk and liability arising from your use of any Third-Party Apps and Services and that we are not responsible for any issues arising out of your use of them. We are not responsible or liable to you or others for information or services provided by any Third-Party Apps and Services.

1.7.4. Additional GenAI Terms. Depending on the Product licensed to you, this EULA may contain additional terms pertaining to GenAI in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms).

1.8. Maintenance.

1.8.1. Our Maintenance and Support Policies. If we offer and you purchase maintenance and/or support for the Product, then it will be provided in accordance with our then current maintenance and support policies for the applicable Product in effect at the time of purchase. You may access our maintenance and support policies by clicking on the applicable Product family link located at <https://www.progress.com/support>.

1.8.2. Maintenance and Support for Perpetual or Term License Types. THIS SECTION IS NOT APPLICABLE.

1.8.3. Maintenance and Support for Subscription License Type. If the license type for the Product licensed to you is the subscription license type, then maintenance and support (if offered by us) is included in the subscription fees for each subscription period. We may offer optional enhanced maintenance and/or support offerings for an additional fee.

1.9. Fees and Taxes.

1.9.1. Payment Terms and Taxes. All fees payable to us are payable in the currency specified in the Order, 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. We 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 we must pay on such fees, except those based on our income. Invoices may be issued by our Affiliate. If you and we agree that you will pay by credit card, you will provide us with valid and updated credit card information and you authorize us to store such information and bill such credit card for all fees applicable: (a) at the time that you order the Product and (b) at the time of any renewal or upgrade.

1.9.2. Fees for Renewal Subscription Licenses. If the license type for the Product licensed to you is the Subscription License Type, then each renewal subscription will be calculated at the then-current price offered for the Product at the time of renewal.

1.9.3. Fees for Renewal Maintenance Terms. THIS SECTION IS NOT APPLICABLE.

1.9.4. Orders between You and Our Authorized Reseller. Notwithstanding the above terms of this section 1.9 (Fees and Taxes), if you purchased your license to the Product and/or maintenance and support from an Authorized

Reseller, then the fees will be set out in the Order between you and the Authorized Reseller. The Authorized Reseller may be responsible for billing and/or collecting payment from you and if so, the billing and collection terms agreed to between you and the Authorized Reseller may differ from the terms set out in this section 1.9 (Fees and Taxes).

1.9.5. No Reliance on Future Availability of any Product or Update. You agree that you have not relied on the future availability of any Product or Updates in your purchasing decision or in entering into the payment obligations in your Order.

1.10. Warranties.

1.10.1. Authority. Each party represents and warrants that it has the legal power and authority to enter into this EULA.

1.10.2. Product Compliance with Documentation. We warrant to you that, for the duration of the license (in the case of a Hosted Service), the Product will comply with the applicable Documentation in all material respects. Your exclusive remedy, and our sole liability, with respect to any breach of this warranty will be for us to use commercially reasonable efforts to promptly correct the non-compliance (provided that you notify us in writing within the warranty period and allow us a reasonable cure period). If we, at our discretion, reasonably determine that correction is not economically or technically feasible, we may terminate your license to the Product and provide you a full refund of the fees paid to us with respect to the Product (in the case of an On-Premise Product) or a refund of the prepaid fees for the unused portion of the license period (in the case of a Hosted Service). Delivery of additional copies of, or Updates to, the Product will not restart or otherwise affect the warranty period.

1.10.3. Warranty Exclusions. The warranty specified in section 1.10.2 (Product Compliance with Documentation) does not cover Technical Preview Items, any Product provided on an unpaid evaluation or trial basis, or defects to the Product due to accident, abuse, service, alteration, modification or improper installation or configuration by you, your Affiliates, your or their personnel or any third party not engaged by us.

1.10.4. Warranty Disclaimers. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS SECTION 1.10 OR THE ADDITIONAL WARRANTIES (IF ANY) EXPRESSLY STATED IN SECTION 3 (PRODUCT FAMILY SPECIFIC TERMS) OR SECTION 4 (PRODUCT SPECIFIC TERMS), THE PRODUCT, DOCUMENTATION AND OUR TECHNOLOGY ARE PROVIDED "AS IS", WITH ALL FAULTS, AND WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. TO THE EXTENT THAT WE 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.

1.11. Indemnification.

1.11.1. Our Indemnification Obligation.

1.11.1.1. Intellectual Property Infringement. We will defend you, and your officers, directors, employees, and agents from and against any and all third party claims, lawsuits, and proceedings alleging that your use of the Product, in accordance with the terms and conditions of this EULA, constitutes a direct infringement or misappropriation of such third party's patent, copyright or trade secret rights (the "**IP Claim**"), and we will indemnify you for damages finally awarded against you by a court of competent jurisdiction with respect to the IP Claim.

1.11.1.2. Exceptions. We will not indemnify you to the extent that the alleged infringement or misappropriation results from (a) use of the Product in combination with any other software or item not supplied by us; (b) failure to promptly implement an Update provided by us pursuant to 1.11.1.3 (Our Options); (c) modification of the Product not made or provided by us; or (d) use of the Product in a manner not permitted by this EULA. We also will not indemnify you if we notify you of our decision to terminate this EULA, and the license to the Product granted hereunder, in accordance with section 1.11.1.3 (Our Options) and you have not ceased all use of the Product within thirty (30) days of such notification.

1.11.1.3. Our Options. If a final injunction is, or we reasonably believe that it could be, obtained against your use of the Product, or if in our opinion the Product is likely to become the subject of a successful claim of infringement, we may, at our option and expense, (a) replace or modify the Product so that it becomes non-infringing (provided that the functionality is substantially equivalent), (b) obtain for you a license to continue to use the Product, or (c) if neither (a) nor (b) are reasonably practicable, terminate this EULA on thirty (30) days' notice and if the Product was licensed to you on a Subscription License basis, refund to you the unused portion of the fees paid in advance to us for the then-current subscription period for the Product. THE INDEMNIFICATION PROVISIONS SET OUT IN THIS SECTION 1.11.1 STATE OUR ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT OR ALLEGED INFRINGEMENT BY US OF ANY INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS IN RESPECT OF THE PRODUCT OR ITS USE.

1.11.2. Your Indemnification Obligation.

1.11.2.1. Indemnification for Third Party-Claims. To the extent permitted by applicable law, you will defend us and our Affiliates, and our and their respective officers, directors, employees, and agents from and against any and all third party claims, lawsuits, and proceedings that arise or result from (a) your breach of this EULA, (b) your use, distribution and/or licensing of the Redistributables, if applicable, except to the extent it arises from an IP Claim covered under section 1.11.1 above, or (c) your failure or alleged failure to comply with Applicable Laws or any violation of a third party's rights in connection with your use of the Product (each a "**Third-Party Claim**" and collectively "**Third-Party Claims**") and you will indemnify for damages finally awarded by a court of competent jurisdiction with respect to any Third-Party Claim.

1.11.3. Control of the Defense or Settlement. For any indemnification obligation covered in section 1.11.1, "**Indemnifying Party**" means us, "**Indemnified Party**" means you, and "**Claim**" means an IP Claim. For any indemnification obligation covered in section 1.11.2, "**Indemnifying Party**" means you, "**Indemnified Party**" means us, and "**Claim**" means a Third-Party Claim. The Indemnified Party must provide the Indemnifying Party with prompt written notice of a Claim; however, the Indemnified Party's failure to provide or delay in providing such notice will not relieve the Indemnifying Party of its obligations under this section except to the extent the Indemnifying Party is prejudiced by the Indemnified Party's failure or delay. The Indemnified Party will give the Indemnifying Party full control of the defense and settlement of the Claim as long as such settlement does not include a financial obligation on or admission of liability by the Indemnified Party. If the Indemnified Party does not do so, then the Indemnified Party waives the Indemnifying Party's indemnification obligations under section 1.11.1 or 1.11.2, as applicable. The Indemnified Party will reasonably cooperate in the defense of the Claim and may appear, at its own expense, through counsel reasonably acceptable to the Indemnifying Party.

1.12. Confidentiality.

1.12.1. Confidentiality Obligations. Except as otherwise provided herein, each party agrees to retain in confidence all Confidential Information transmitted or disclosed to the other party, and agrees to make no use of the other party's Confidential Information except under the terms of this EULA. However, neither party will have an obligation to maintain the confidentiality of information that (a) it received rightfully from a third party without an obligation to maintain such information in confidence; (b) was known to the receiving party prior to its disclosure by the disclosing party; (c) is or becomes a matter of public knowledge through no fault of the receiving party; or (d) is independently developed by the receiving party without use of the Confidential Information of the disclosing party. Further, either party may disclose Confidential Information of the other party as required by governmental or judicial order, provided such party gives the other party prompt written notice prior to such disclosure (unless such prior notice is not permitted by applicable law) and complies with any protective order (or equivalent) imposed on such disclosure. You will treat any source code for the Product as our Confidential Information and will not disclose, disseminate or distribute such materials to any third party without our prior written permission. Each party's obligations under this section 1.12 will apply during the term of this EULA and for five (5) years following termination of this EULA, provided, however, that (i) obligations with respect to source code will survive forever and (ii) trade secrets will be maintained as such until they fall into the public domain.

1.12.2. Product Benchmark Results. You acknowledge that any benchmark results pertaining to the Product are our Confidential Information and may not be disclosed or published without our prior written consent. This provision applies regardless of whether the benchmark tests are conducted by you or us.

1.12.3. Remedies for Breach of Confidentiality Obligations. Each party acknowledges that in the event of a breach or threat of breach of this section 1.12, money damages will not be adequate. Therefore, in addition to any other legal or equitable remedies, the non-breaching party will be entitled to seek injunctive or similar equitable relief against such breach or threat of breach without proof of actual injury and without posting of a bond.

1.13. Data Collection and Personal Data.

1.13.1. Data Collection through use of the Product. THE PRODUCT MAY INCLUDE FEATURE(S) THAT (A) GATHER PRODUCT ACTIVATION, USAGE AND/OR ENVIRONMENT INFORMATION, (B) IDENTIFY TRENDS AND/OR BUGS, (C) COLLECT USAGE STATISTICS, AND/OR (D) TRACK OTHER DATA RELATED TO YOUR USE OF THE PRODUCT, AS FURTHER DESCRIBED IN THE CURRENT VERSION OF OUR PRIVACY POLICY AVAILABLE AT <https://www.progress.com/legal/privacy-policy>. BY YOUR ACCEPTANCE OF THE TERMS OF THIS EULA AND/OR USE OF THE PRODUCT, YOU AUTHORIZE THE COLLECTION, USE AND DISCLOSURE OF THIS DATA FOR THE PURPOSES PROVIDED FOR IN THIS EULA AND/OR THE PRIVACY POLICY.

1.13.2. Additional Data Collection Terms. Depending on the Product licensed to you, this EULA may contain additional data collection terms in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms) and/or, if we are hosting the Product, in section 2.B (Terms for Hosted Services).

1.13.3. Your Personal Data. If you determine that you will be supplying us with your Personal Data (as defined in the Data Processing Addendum referenced below) for us to process on your behalf, in the provision of maintenance and support services or hosting services (if the Product licensed to you is a Hosted Service) or during the course of any audits we conduct pursuant to section 1.15 (Audit), you may submit a written request at privacy@progress.com for the mutual execution of a Data Processing Addendum substantially in the form we make available at <https://www.progress.com/docs/default-source/progress-software/data-processing-addendum.pdf> and we will enter into such Data Processing Addendum with you. To the extent there is any conflict between this EULA and such Data Processing Addendum, the Data Processing Addendum will prevail with respect to our handling and processing of your Personal Data.

1.14. Limitation of Liability and Disclaimer of Certain Types of Damages.

1.14.1. Limitation of Liability. EXCEPT FOR YOUR PAYMENT OBLIGATIONS, A PARTY'S INDEMNIFICATION OBLIGATIONS SET OUT IN THIS EULA OR A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 1.12 (CONFIDENTIALITY), OR YOUR MATERIAL VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS OR OF THE LICENSE RESTRICTIONS SET OUT IN THIS EULA, TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY'S LIABILITY FOR ALL COSTS, DAMAGES, AND EXPENSES ARISING OUT OF OR RELATED TO THIS EULA WHETHER BASED UPON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE AT LAW EXCEED, IN THE AGGREGATE, THE FEES PAID TO US FOR THE PRODUCT AND/OR SERVICE THAT IS THE SUBJECT OF THE CLAIM, PROVIDED, HOWEVER, THAT IF THE FEES PAID FOR SUCH PRODUCT AND/OR SERVICE ARE PAID ON A RECURRING BASIS, THEN THE NOT TO EXCEED LIMIT WILL BE THE FEES PAID TO US FOR THE PRODUCT AND/OR SERVICE DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. OUR AFFILIATES AND LICENSORS, AND THE SUPPLIERS TO US, OUR 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 EULA, INCLUDING, WITHOUT LIMITATION, DAMAGES IN CONNECTION WITH THE PERFORMANCE OR OPERATION OF OUR PRODUCTS OR OUR PERFORMANCE OF SERVICES.

1.14.2. Disclaimer of Certain Types of Damages. EXCEPT FOR YOUR PAYMENT OBLIGATIONS, A PARTY'S INDEMNIFICATION OBLIGATIONS SET OUT IN THIS EULA OR YOUR MATERIAL VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS OR THE LICENSE RESTRICTIONS SET OUT IN THIS EULA, TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES OR ITS LICENSORS OR THEIR RESPECTIVE SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR TORT DAMAGES ARISING IN CONNECTION

WITH THIS EULA OR EITHER PARTY'S PERFORMANCE UNDER THIS EULA OR THE PERFORMANCE OF OUR PRODUCTS, OR FOR ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF OPPORTUNITY, LOSS OF DATA, LOSS OF REVENUE, LOSS OF PROFITS, OR LOSS OF BUSINESS, EVEN IF THE PARTY, ITS AFFILIATES, ITS LICENSORS, OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

1.15. Audit. We may install and use automated license tracking, management and/or enforcement solutions with the Product, which you may not disrupt or alter. You will maintain records in connection with this EULA and the use of the Product and any Updates and/or services provided hereunder. Such records will include at a minimum the number of licenses purchased and being used by you. At our expense and with reasonable written notice to you, we or a third party appointed by us may audit the records, and if necessary and as applicable, the systems on which the Product or any Update is installed for the sole purpose of ensuring compliance with the terms of this EULA. We will have the right to conduct audits as necessary. These audits may be conducted on site at a location where you have installed the Product, remotely from our offices, or a combination of both, if applicable to the Product. On-site audits will be conducted during regular business hours, and neither on-site nor remote audits will interfere unreasonably with your business operations. You agree to share with us copies of all records referenced herein, as well as Product log files and other information reasonably requested by us promptly following such request, but in no event more than five (5) business days following receipt of our written request (or such longer period, if applicable, that we specify in the written request). We will treat all such information obtained or accessed by us during the audit as Confidential Information pursuant to section 1.12 (Confidentiality) for use by us only as necessary to ensure compliance with and enforcement of the terms of this EULA. If any audit reveals that you have underpaid license, maintenance and support or subscription fees, you will be invoiced for all such underpaid fees based on our list price in effect at the time the audit is completed. If the underpaid fees exceed five percent (5%) of the fees previously paid by you, then you will also pay our reasonable costs of conducting the audit and enforcement of this EULA.

1.16. Termination.

1.16.1. Termination for Breach. We may terminate this EULA by written notice at any time if you do not comply with any of your obligations under this EULA and fail to cure such failure to our satisfaction within thirty (30) days after such notice. This remedy will not be exclusive and will be in addition to any other remedies which we may have under this EULA or otherwise.

1.16.2. Effect of Termination. Upon expiration of your license term to the Product (if applicable) or earlier termination of this EULA, your license to access and/or use the Product and/or distribute the Redistributables (if applicable) will terminate. You must immediately cease use of the Product and destroy all copies of the Product in your possession (and require any Authorized Users to do the same). Any licenses you have granted to the Redistributables in accordance with the terms and conditions of this EULA will, unless otherwise specified in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms), survive termination of this EULA.

1.16.3. Survival. Any provisions of this EULA containing licensing restrictions, warranties and warranty disclaimers, confidentiality obligations, limitations of liability and/or indemnity terms, audits rights, and any term of this EULA which, by its nature, is intended to survive termination or expiration, will remain in effect following any termination or expiration of this EULA, as will your obligation to pay any fees accrued and owing to us as of termination or expiration.

1.17. Assignment. You may not, without our prior written consent, assign or novate this EULA, any of your rights or obligations under this EULA, or the Products or any of our Confidential Information, in whole or in part, by operation of law, sale of assets, merger or otherwise, to any other party, including any parent, subsidiary or affiliated entity. Your Change of Control will constitute an assignment for purposes of the preceding sentence. A **"Change of Control"** will include, but not be limited to, any merger, consolidation, amalgamation, reorganization or sale, transfer or exchange of the capital stock or equity interests of you in a transaction or series of transactions which results in the holders of your capital stock or equity interests holding less than 50% of the outstanding capital stock or equity interests immediately following such transaction(s).

1.18. Choice of Law. This EULA is governed by the laws 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 will 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 will not apply to this EULA.

1.19. Miscellaneous.

1.19.1. Notices. Notices of termination, material breach, your insolvency or an indemnifiable claim ("**Legal Notices**") must be clearly identified as Legal Notices and sent via overnight courier or certified mail with proof of delivery to the following addresses: For us: 15 Wayside Rd, Suite 400, Burlington, MA 01803, Attention: General Counsel. For you: your address set out in the Order. Legal Notices sent in accordance with the above will be effective upon the second business day after mailing. Either party may change its address for receipt of notices upon written notice to the other party.

1.19.2. Entire Agreement. This EULA, and any terms expressly incorporated herein by reference, will constitute the entire agreement between you and us with respect to the subject matter of this EULA and supersedes all prior and contemporaneous communications, oral or written, signed or unsigned, regarding such subject matter. Use of any purchase order or other document you supply in connection with this EULA will be for administrative convenience only and all terms and conditions stated therein will be void and of no effect. Except as otherwise expressly contemplated in this EULA, this EULA may not be modified or amended other than in writing signed by you and us.

1.19.3. Severability. If any provision of this EULA is terminated or held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this EULA will remain in full force and effect.

1.19.4. Waiver. Failure or delay in exercising any right, power, privilege or remedy hereunder will not constitute a waiver thereof. A waiver of default will not operate as a waiver of any other default or of the same type of default on future occasions.

1.19.5. English Language. This EULA has been drawn up in English at the express wish of the parties. Le présent contrat a été rédigé en anglais à la demande expresse des parties.

1.19.6. Force Majeure. Neither you nor we will be liable for any delay or failure to take any action required under this EULA (except for payment) due to any cause beyond the reasonable control of you or us, as the case may be, including, but not limited to unavailability or shortages of labour, materials, or equipment, failure or delay in the delivery of vendors and suppliers and delays in transportation.

1.19.7. Our Use of Our Affiliates. We may, at our discretion, engage one or more of our Affiliates in the fulfilment of our obligations, including, our obligations for delivery of the Product to you and/or the provision of any maintenance and support services.

2.A. TERMS FOR ON-PREMISE PRODUCTS	THIS SECTION IS NOT APPLICABLE
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2.B. TERMS FOR HOSTED SERVICES

2.B.1. Definitions.

2.B.1.1. "**Access Credentials**" means login information, passwords, security protocols, and policies through which you or Authorized Users access and use the Hosted Services.

2.B.1.2. **“Account”** means the account through which you access the Hosted Services, or your Authorized Users access the Hosted Services for your benefit and/or on your behalf.

2.B.1.3. **“Acceptable Use Policy”** or **“AUP”** means our acceptable use policy located at <https://www.progress.com/legal/aup> that specifies rules, requirements and limitations concerning your use of the Hosted Services, and as may be updated by us from time to time.

2.B.1.4. **“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 or your Authorized Users upload to or process using the Hosted Services.

2.B.1.5. **“Downloadable Software”** means any computer software programs, SDKs, codes, and/or files made available by us through or as part of the Hosted Services which you may be required to download and install/store locally on your computer to connect to and/or use the Hosted Services, along with any related Documentation and Updates.

2.B.1.6. **“Terms”** means collectively: (a) this EULA, (b) the AUP, (c) the Terms of Use for our website located at <https://www.progress.com/legal/terms-of-use>, as updated by us from time to time, and (d) our Privacy Policy located at <https://www.progress.com/legal/privacy-policy>, as updated by us from time to time.

2.B.2. **Eligibility, Registration and Access Credentials.**

2.B.2.1. **Eligibility.** To be eligible to use the Hosted Services, you must meet the following criteria and represent and warrant that you: (a) are 18 years of age or older, (b) are not currently restricted from the Hosted Services, (c) are not a competitor of ours or our Affiliates and are not using the Hosted Services for reasons that are in competition with us or our Affiliates, (d) have full power and authority to enter into the Terms and in doing so will not violate any other agreement to which you are a party, (e) will not violate any of our rights, including Intellectual Property Rights, (f) will comply with the Terms as the same may be amended from time to time, and (g) agree to provide at your cost all equipment, software and internet access necessary to use the Hosted Services.

2.B.2.2. **Registration.** Except as otherwise specified in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms), this section specifies the terms applicable to your registration to use the Hosted Services. When you register to use the Hosted Services, we will ask for your name, email address and other related information. Provided your information meets any applicable registration requirements, we will create an Account for you. As part of the registration process you (or we at your request) will create Access Credentials for each of your Authorized Users.

2.B.2.3. **Access Credentials.** Except as otherwise specified in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms), this section specifies the terms applicable to Access Credentials provided to you to access the Hosted Services. You are responsible for safeguarding the Access Credentials. You agree to: (a) keep your Access Credentials secure and confidential and not allow any of your Authorized Users to provide their Access Credentials to anyone else; (b) not permit others to use your Account; and (c) refrain from using other users' accounts. We rely on the Access Credentials as a method to differentiate one user from another. If someone else is using your Access Credentials, we will assume they are you and we will give them access. (Note, “you” includes your Authorized Users for whom you are responsible). You will be responsible for all activity carried out under your Account using Access Credentials made available to you and anything that happens through your Account, whether or not you have authorized such activities or actions, until you close your Account or prove that your Account security was compromised due to no fault of your own. If you know or suspect that someone has gained access to Access Credentials made available to you, you will immediately let us know. We will turn off the compromised Access Credentials and issue new Access Credentials. We reserve the right to take any action we deem necessary or reasonable to ensure the security of the Hosted Services and your Account, including terminating your access or the access of any of your Authorized Users, changing passwords, or requesting additional information to authorize activities related to your Account. In no event and under no circumstances will we be held liable to you for any

liabilities or damages resulting from or arising out of (i) any action or inaction on our part under this provision, (ii) any compromise of the confidentiality of your Account, or (iii) any unauthorized access to or use of your Account.

2.B.3. Content.

2.B.3.1. Your Responsibility for the Content and License Grant to Us. You are responsible for any Content submitted and made available through the Hosted Services. You will be entirely responsible for each Content item provided by you or your Authorized Users through the Hosted Services, and, as between you and us, you retain ownership and any intellectual property rights in such Content. You will, at your own expense, obtain all third-party licenses, consents and/or permissions that may be necessary or appropriate with respect to such Content to enable each party to exercise its rights and perform its obligations under this EULA. You grant us a world-wide, royalty free, fully paid up, transferable, sublicensable license to use, copy, host, store, disseminate, distribute, publicly display, sublicense, post or publish such Content, but only to the extent necessary for us to provide the Hosted Services. You agree that we may use our third-party contractors and service providers to exercise the licenses granted to us in this section to perform the Hosted Services for or on our behalf. You agree that you will have no rights against such third-party contractors or service providers in connection with this EULA or your use of the Hosted Services hereunder. In addition, you acknowledge that to protect your transmission of Content to the Hosted Services, it is your responsibility to use a secure encrypted connection to communicate with and/or utilize the Hosted Services.

2.B.3.2. Your Warranties Regarding the Content. You represent and warrant that the Content does not and will not violate the AUP.

2.B.3.3. Our Disclaimer Regarding the Content. We do not endorse any Content or any opinion, recommendation, or advice expressed in any Content, and we expressly disclaim any liability in connection with any Content. ANY USE OF CONTENT PROVIDED BY OTHERS, INCLUDING OTHER CUSTOMERS, IS ENTIRELY AT YOUR OWN RISK. WE MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT ANY CONTENT AVAILABLE ON OUR WEBSITE OR THROUGH THE HOSTED SERVICES, INCLUDING WITHOUT LIMITATION WITH RESPECT TO SUCH CONTENT'S QUALITY, ACCURACY, LEGALITY OR RELIABILITY.

2.B.4. Changes to the Hosted Services or EULA.

2.B.4.1. Changes to the Hosted Services. We reserve the right to add, modify or discontinue any product, feature or service made available through the Hosted Services. Any additions or modifications to the Hosted Services may be subject to additional terms and conditions which will be included in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms) of an updated version of this EULA implemented in accordance with the terms of section 2.B.4.2 (Changes to the EULA). We may, at our discretion, replace the Hosted Service with a successor service with equivalent or better functionality and/or rebrand the Hosted Service at any time during your subscription term, provided that any such successor service or re-branding will not result in any additional charges to you during your subscription term.

2.B.4.2. Changes to the EULA. We may modify this EULA at any time by posting a revised version on our website at <https://www.progress.com/legal>. Modified terms that relate to modifications or additions to the Hosted Services will be effective at the time such modifications or additions to the Hosted Services are made in accordance with section 2.B.4.1 (Changes to the Hosted Services). Modified terms that are required by law will be effective immediately. All other modified terms will be effective at the commencement of your renewal subscription period occurring immediately following the posting of the revised version of this EULA. If we post any revisions to this EULA after the date on which you are required to notify us that you do not want to renew your subscription (pursuant to section 1.3.4 (Subscription License Type)) and you do not agree with the terms and conditions of the revised EULA, you may notify us that you do not want to renew your subscription at any time prior to the commencement of your renewal subscription period. It is your responsibility to check our website regularly for revisions to this EULA.

2.B.5. Data Backup and Limitations on Availability of Hosted Services.

2.B.5.1. Data Backup. We will follow our standard archival procedures for storage of Content. In the event of any loss or corruption of Content, we will use commercially reasonable efforts to restore the lost or corrupted Content from the latest backup of such Content maintained by us or our third-party service provider in accordance with its archival procedures. We will not be responsible for any loss, corruption, destruction, alteration, or unauthorized disclosure of or access to Content directly or indirectly arising from acts or omissions of you, your Authorized Users or a third party. OUR EFFORTS TO RESTORE LOST OR CORRUPTED CONTENT PURSUANT TO THIS SECTION 2.B.5.1 WILL CONSTITUTE OUR SOLE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY LOSS, CORRUPTION, DESTRUCTION, ALTERATION OR UNAUTHORIZED DISCLOSURE OF OR ACCESS TO CONTENT.

2.B.5.2. Limitations on Availability of Hosted Services. The Hosted Services may be inaccessible for reasons including maintenance updates, power outages, internet delays, system failures, extended downtime and other interruptions. During such periods, you and your Authorized Users may be unable to access or use all or a portion of the Hosted Services and some or all of the Content may be lost or corrupted (in which case, our sole obligation to you will be to exercise commercially reasonable efforts to restore the Content in accordance with section 2.B.5.1 (Data Backup)). Additionally, we may immediately suspend the Hosted Services if there is a reasonable threat to the technical security or technical integrity of the Hosted Services.

2.B.5.3. SLO for Hosted Services. We may offer Service Level Objective (SLOs) for certain Hosted Services. If a Hosted Service has an SLO associated with it, the terms will be specified in section 3 (Product Family Terms) or section 4 (Product Specific Terms).

2.B.6. Use of Third Party Vendors; Transmission of Data. We may use third party vendors to provide the infrastructure, hardware, software, networking, storage, and related technology required to operate and provide the Hosted Services (“**Cloud Infrastructure Environment**”) and such third party vendors may be granted access to your Content while performing services for us in accordance with the terms set out in section 2.B.3.1 (Your Responsibility for the Content and License Grant to Us). You agree to abide by such third party vendors’ acceptable use policies which are provided or otherwise noticed to you, and you shall have no rights against any such third party vendors in connection with the Hosted Services.

2.B.7. Location of Cloud Infrastructure Environment and Personnel. Except as otherwise specified in section 3 (Product Family Specific Terms) or section 4 (Product Specific Terms), the Cloud Infrastructure Environment, or any portion thereof, and any of our personnel or the personnel of our Affiliates or service providers with access to the Content under the license granted in section 2.B.3.1 (Your Responsibility for the Content and License Grant to Us), may be located in the United States or any other country in which we or our Affiliates or service providers maintain facilities.

2.B.8. Information Use and Disclosure by Us. With respect to the Hosted Services, we may access or disclose information about you, your Authorized Users, Account(s) and/or the content of your or your Authorized Users’ communications in order to (i) provide, operate, and improve the Hosted Services; (ii) comply with Applicable Laws or respond to lawful requests or legal process; or (iii) protect our rights or property and/or that of our customers, including the enforcement of our agreements or policies governing the use of the Hosted Services. Personal data collected or otherwise processed by us in the performance of services related to the Hosted Services may be transferred to, and stored and processed in, the United States or any other country in which we or our Affiliates or service providers maintain facilities. For more information on our privacy practices read the privacy statement at <https://www.progress.com/legal/privacy-policy>.

2.B.9. Promotional and Trial Offers. We may offer trial or promotional subscriptions (“**Promotional Subscriptions**”) for Hosted Services other than the Hosted Services you have ordered from us or our Authorized Reseller. Unless otherwise specified, a Promotional Subscription will remain active only for as long as you maintain an active, paid subscription to the Hosted Services you have ordered from us or our Authorized Reseller and which formed the basis for your eligibility for the Promotional Subscription. We reserve the right at any time to modify or discontinue, temporarily or permanently, any Promotional Subscription and your access to the Hosted Services licensed under such Promotional Subscription with or without notice.

2.B.10. **Links to Third-Party Sites.** The Hosted Services may include links to third-party sites. We do not control such sites and are not responsible for the content of any linked site, any links contained in the linked site, or any changes or updates to such sites. We are not responsible for any form of transmission received from any linked site. You acknowledge and agree that we are not liable for any loss or damage which you may incur as a result of the availability of third-party vendor resources or external sites.

2.B.11. **Terms for Downloadable Software.** If the Hosted Services includes any Downloadable Software, then the license granted to you to the Hosted Services pursuant to this EULA includes the right to download, install and use the Downloadable Software only for the purpose of connecting to and using the Hosted Services. Your right to use the Downloadable Software applies only while you have an active subscription for the Hosted Services and will automatically terminate immediately following the termination of your subscription. You will destroy all copies of the Downloadable Software in your possession and will cause your Authorized Users to do the same. Upon our request, you will provide us with a written instrument signed by your authorized representative certifying your compliance with the destruction requirements set forth in this section 2.B.11.

2.B.12. **Termination.** In addition to any other termination rights we may have under this EULA, unless otherwise prohibited by law, and without prejudice to our other rights or remedies, we may terminate this EULA and the licenses to the Hosted Services granted to you hereunder immediately if: (i) we believe providing the Hosted Services could create a substantial economic or technical burden or material security risk for us or any of our Affiliates, or (ii) termination is required in order to comply with the law or requests of governmental entities.

3. PRODUCT FAMILY SPECIFIC TERMS

This section specifies terms and conditions that are applicable to the following Hosted Services: Progress Automate MFT

Default License Type for each of the above-referenced Hosted Services: Subscription.

3.1. Product Family Definitions.

Any defined term used in this section 3 (Product Family Specific Terms) but not defined herein will have the meaning ascribed to it in section 1 (General Terms and Conditions) or section 2.B (Terms for Hosted Services).

3.1.1. **“Subscription”** means your subscription-based license to use a certain Hosted Services as specified in the Order and pursuant to the terms of this EULA. A Subscription is limited to the specific Hosted Services to which you have subscribed and is only active during the period, and to the extent, for which you have subscribed and paid all applicable Subscription fees.

3.2. **Trial License.** If you register for access to the free trial license for the Hosted Services (**“Trial License”**), then your use of the Hosted Service is subject to the limitations and conditions specified in section 1.2.5 (Limitations on Evaluation or Trial Licenses). You will also use the Trial License for purposes of monitoring service availability, performance or functionality, or any other benchmarking purposes only with our prior written consent. Unless otherwise expressly agreed by us in writing, the term of the Trial License will not exceed thirty (30) days after you are issued access credentials to access the Trial License. At the end of the evaluation period, the Trial License will automatically expire, and you will cease to have access to the Hosted Services unless you obtain a commercial license for the Hosted Service. We reserve the right to limit, at our discretion, any usage parameters associated with the Trial License, including without limitation, number of Authorized Users, domains, virtual cores, amount of memory, and database storage capacity.

3.3. **Commercial License.** If you have purchased a Subscription for a Hosted Services, then, subject to the terms of this EULA, for as long as you maintain an active Subscription, we grant you a limited, non-transferable, revocable, royalty-free, non-exclusive license to, and to allow your Authorized User(s) to: (a) access and use the Hosted Service specified in the Order and (b) download, install and use any Downloadable Software, and any updates, upgrades,

modifications and error corrections to such Downloadable Software provided to you by us. Your use of the Hosted Services and Downloadable Software will also be subject to the applicable Product-specific terms set out in section 4 (Product Specific Terms).

3.4. **Term, Subscription Upgrades or Downgrades and Termination.**

3.4.1. **Term.** You must maintain an active Subscription to continue using the Hosted Services and any Downloadable Software. Trial Licenses will expire in accordance with the terms of section 3.2 (Trial License). This EULA and any paid Subscription license granted hereunder will be renewed for successive Subscription periods pursuant to the applicable Subscription purchased, until terminated in accordance with this section 3.7. If you do not maintain an active Subscription, this EULA and the Subscription license granted hereunder, along with your and your Authorized Users' use of and access to the Hosted Services and any Downloadable Software, will terminate.

3.4.2. **Renewal of Paid Subscription.** Unless otherwise specified in the Order, your Subscription will terminate at the end of the then-current Subscription period purchased by you, with no automatic renewal, unless we offer, and you purchase, a Subscription renewal term prior to the expiration of such Subscription period. All renewals will be charged at the rate then in effect at the time of purchase. If you purchase a renewal Subscription, your Subscription will be renewed at the level we, in our sole discretion, identify as being closest to your previous Subscription. If you do not purchase a renewal Subscription, then the terms of section 1.15.2 (Effect of Termination) will apply.

3.4.3. **Termination.** We may terminate your Subscription to the Hosted Service in accordance with the terms specified in sections 1.15.1 (Termination for Breach) and 2.B.9 (Termination). In the event of termination of your Subscription for the Hosted Service, you will be required to satisfy the requirements specified in section 1.15.2 (Effect of Termination) and section 2.B.11 (Terms for Downloadable Software). We will hold your Content for a period of thirty (30) days following termination, during which you will be provided a reasonable opportunity to collect your Content. After the end of the thirty (30) day period, your Content will be deleted. Except in the case of termination by us for your breach in accordance with section 1.15.1 (Termination for Breach), you may, if the Hosting Service continues to be made generally available by us to our customers, create a new Account and obtain a new Subscription following the expiration or termination of your Subscription. If you obtained a free Subscription, we also reserve the right at any time to modify or discontinue, temporarily or permanently, such free Subscription and your access to the Hosted Service thereunder with or without notice. Unless modified or discontinued by us in our sole discretion, your free Subscription will automatically terminate if you cancel or upgrade to a paid Subscription for the Hosted Service.

3.5. **Credentials.** You will be required to create a user name and password ("**Credentials**") that will be required for use of and access to the Hosted Service. You may only access the Hosted Service and support using your Credentials, and may not access the Hosted Service or support using Credentials of any other person. You may not make your Credentials available to others, nor allow use of and access to the Hosted Service or support by others through your Credentials. You agree to accept sole responsibility and liability for maintaining the confidentiality of your Credentials, for restricting access to your Credentials and for all use, whether authorized or unauthorized, of the Hosted Services or support under your Credentials. Please note that if we create access credential at your request, it will be for the primary authorized user only. The creation of user names and password resets will require additional verification and approval from us.

3.5.1. **Use of the Hosted Service.** You may use the Hosted Service for your internal use only (meaning use of the Hosted Service for the transfer of files to or from you or your organization).

3.6. **Support.**

3.6.1 **Support Eligibility.** The support you receive for the Hosted Service (Progress Automate MFT) depends on the level you select at the time of your Subscription purchase. To be eligible for support: (i) your use of the Progress Automate MFT must be in full compliance with the terms of this EULA; and (ii) you must provide all information and evidence necessary for our support personnel to adequately understand your support issue and diagnose the cause of such issue.

3.6.2. **Support Description.** As part of your Subscription you are entitled to the support, identified for your level, and described in greater detail at <https://community.progress.com/s/products/automate-mft/scope-of->

[support](#) and <https://community.progress.com/s/products/support/service-level-objectives-cloud>. You will lose the right to receive support at the end of your Subscription, unless you renew your Subscription with us at additional cost.

3.6.3. Exclusions and Limitations on Support. A description of items within scope and items out of scope of support can be found at <https://community.progress.com/s/products/automate-mft/scope-of-support>. The list of items out of scope of Support is not an exhaustive list and if an item is not explicitly mentioned as being within scope of support then it is excluded. If it is determined by us in our sole discretion that you have received support from us for which you were not eligible, we may assess, and you agree to pay reasonable and appropriate fees for such support.

3.6.4. Support Incidents. A single support may involve several communications and offline work in order to be resolved. You agree to provide us with detailed information about the issue encountered and cooperate with our requests for additional information as we attempt to resolve the issue. Our support engineers will make reasonable efforts to resolve your support issues; however, we do not guarantee that all support issues will be resolved. Bug reports and product feature suggestions are not considered support incidents, and we are not obligated to acknowledge or address such bug reports and/or product feature suggestions.

3.6.5. Support Personnel Locations. Our support personnel are located throughout the many international offices maintained by us and/or our affiliates. The location of the person or persons supporting your issue (e.g. engaging with you, responding to your inquiry, researching the issue(s) which you have reported, and providing guidance) will vary depending upon multiple variables including but not limited to the complexity of the issue, day(s) and/or time(s) on/at which support is provided, and availability of resources. It is your responsibility to request and determine the location of our support personnel throughout the support inquiry and to determine, in your sole discretion, the Content that you wish to share with such personnel and/or authorize such personnel to access within your Account. For the avoidance of doubt, if you elect to share Content with support personnel located outside of a European Union member country (and/or to grant such support personnel access to your Account) you acknowledge and agree that you will have done so voluntarily with full knowledge of the recipient's location and full knowledge of the nature of the Content that is shared or to which access has been granted. You represent and warrant to us that your distribution of (and/or grant of access to) such Content to our support personnel complies with Applicable Laws, and that you have an unqualified right to make such distribution and/or grant us such access for the purposes of providing support hereunder.

3.7. Service Level Availability. This section outlines the service level availability targets for Progress Automate MFT.

3.7.1. Definitions

3.7.1.1. "Downtime" means that Progress Automate MFT is offline and unavailable for your use. Downtime excludes time offline and unavailability resulting directly or indirectly from any Service Level Exclusion (defined below).

3.7.1.2. "Service Level Availability" means the total number of minutes in a calendar month minus the number of minutes of Downtime suffered in such calendar month, divided by the total number of minutes in the calendar month. The applicable formula is:

$$\text{Service Level Availability} = \left(\frac{(\text{Total Minutes in Month}) - (\text{Total Minutes of Downtime})}{(\text{Total Minutes in a Month})} \right) \times 100$$

For any partial calendar month during which you have access to Progress Automate MFT, the Service Level Availability will be calculated based on the entire calendar month, not just the portion for which you have access to Progress Automate MFT.

3.7.1.3. "Service Credit" means the credit represented by the right to extend the term of a Subscription at

no additional cost to you for a determined number of days in accordance with section 3.7.2 (Service Level and Credits).

3.7.2. Service Level and Service Credits

3.7.2.1. **Service Levels.** We will use commercially reasonable efforts to make Progress Automate MFT available with a Service Level Availability of at least 99.9% during any calendar month. In the event we do not meet the Service Level Availability for any calendar month (each a “**Service Level Failure**”), you will be eligible to receive a Service Credit as described below:

Service Level Availability	Service Credit
Less than 99.9% but equal to or greater than 99.0%	three (3) days
Less than 99.0% but equal to or greater than 95.0%	ten (10) days
Less than 95%	thirty (30) days

3.7.2.2. **Maximum Service Credit.** The maximum Service Credit awarded for a Subscription will not, under any circumstance, exceed thirty (30) days.

3.7.2.4. **Termination For Repeated Service Level Failures.** You may elect to terminate the Subscription in the event the Service Level Availability is less than ninety five percent (95%) in any two (2) consecutive months or in any three (3) months during any twelve (12) month period, by giving us a written notice and the termination will be effective within thirty (30) days after such notice. You will also be entitled to a refund on a pro-rata basis of any unused portion of any prepaid fees for the then-current subscription.

3.7.3. Service Credit Request

3.7.3.1. **Requesting a Service Credit.** To receive a Service Level Credit, you must submit a claim opening a case with our support team (a “**Service Credit Request**”). To be eligible, the Service Credit Request must be received by us within thirty (30) days following the end of the month when the Service Level Failure occurred and must include: (a) the words “Progress Automate MFT Service Credit Request” in the subject line; (b) the dates and times of each Service Level Failure that you are claiming, including the dates and times of the Downtime that caused the Service Level Failure; (c) the affected Progress Automate MFT URL; (d) your request logs that document the errors and corroborate your claimed Downtime (any confidential or sensitive information in these logs should be removed or replaced with asterisks).

3.7.3.2. **Issuance of Service Credits.** If the Service Level Failure of such request is confirmed by us and is less than the applicable Service Level Availability, then we will issue the Service Credit to you within thirty (30) days following the month in which your request is confirmed by us. Your failure to provide the request and other information as required above will disqualify you from receiving a Service Credit. We will notify you of the amount of any Service Credit, which will be applied against the term of your Subscription. Except as provided in section 3.7.2.4 (Termination or Repeated Service Level Failures), Service Credits will not entitle you to any refund or other payment from us.

3.7.3.3. **Sole and Exclusive Remedy.** Except as provided in section 3.7.2.4 (Termination or Repeated Service Level Failures), the Service Credit is your sole and exclusive remedy and our sole and exclusive liability for any Service Level Failure, Downtime, unavailability, non-performance, or other failure by us to make Progress Automate MFT available.

3.7.4. Exclusions

3.7.4.1. Downtime does not include unavailability, suspension or termination of the Hosted Service that result from: (a) termination or suspension of the Hosted Service described in section 2.B.5.2 (Limitations on Availability of Hosted Services) of this EULA; (b) factors outside of our reasonable control, including force majeure events, denial of service attacks, or Internet access or related problems beyond the demarcation point of the Product; (c) any actions or inactions of you or any third party; (d) your infrastructure, equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within our direct control), or your use of the Hosted Service in a manner inconsistent with the Documentation; (e) any scheduled maintenance of the Hosted Service; (f) our suspension and termination of your right to use the Hosted Service in accordance with this EULA; or (g) license restrictions or other limitations as set forth in each Order or (h) Emergency Maintenance as described in Section 3.11 below (collectively, “**Service Level Exclusions**”).

3.7.5. **Service Status.** You can monitor the availability of the Progress Automate MFT Cloud at any time by visiting <https://status.mft.progress.com> or any subsequent weblink that supersedes it (“**Status Site**”). We use the Status Site to make announcements about all availability-impacting work we perform, including any scheduled maintenance of the Hosted Service. Whenever possible we include details about the nature of the work being performed and offer guidance on the expected maintenance completion. We recommend you sign up for proactive alerts available from this Status Site.

3.8. **Usage Level.** We will measure your use of Progress Automate MFT based on the entitlements set forth in the Order you purchased the Subscription, as follows:

3.8.1. **Cloud Data Per Month.** The total cumulative amount of data uploaded and downloaded, temporary cache storage and audit log data transferred during a month using Progress hosted cloud agents.

3.8.2. **Self-hosted Data Per Month.** The total cumulative amount of data uploaded and downloaded, temporary cache storage and audit log data transferred during a month using self-hosted agents. Bandwidth is the total traffic (download and upload) of files transferred by the service. The number of transfers (whether the transfer was made by one task or five separate tasks) does not matter for bandwidth calculations. Used bandwidth usage is calculated and updated during task executions.

3.8.3 **Cloud Tasks Per Month.** The total number of task runs executed per month using Progress hosted cloud agents.

3.8.4 **Self-hosted Tasks Per Month.** The total number of task runs executed per month using self-hosted agents.

3.8.5. **Self-hosted Agents.** The total number of self-hosted agents included in your subscription tier.

- **Tasks executions quota**

Task execution means a single scheduled run of a combination of steps (grouped and defined as a task). Each run is counted separately, whether tasks are executed sequentially or in parallel. Execution is different from task definition. For example, we may have two defined tasks that run each hour, which will make 10 executions for 10 hours for each of the tasks or 20 consumed task executions for 10 hours.

- **Self-Hosted Agents quota**

Number of self-hosted agents created in the system. The quota does not care if the agents are actually installed, connected, or running. It is just the slot for self-hosted agents. For example, we may have five agents (used quota), 3 of which are up and running, 1 with lost connection, and one not even installed.

3.8.6. **Advanced Host Types.** The total number of advanced host types included in your subscription tier (if applicable).

3.8.7 **Entitlements.** We agree to provide you with the subscription entitlements prepaid by you. Entitlements include standard endpoint types, cloud data per month, self-hosted data per month, cloud tasks per month, self-hosted tasks per month, quantity of self-hosted agents, extended support. Cloud data consumption and self-hosted data consumption will be measured in bytes.

3.8.8 If your consumption approaches the limits specified in your subscription entitlements (as measured by us) you agree that you will either (a) upgrade to a higher level subscription tier for the remainder of the term of your Subscription or (b) reduce your usage to keep your consumption within your subscription entitlement limits.

3.8.9 Failure to upgrade your subscription entitlements required to accommodate your measured consumption after forty-five (45) days will constitute a breach, for which we may terminate your Subscription and this EULA.

3.9. Performance

3.9.1 We continuously monitor the system performance. In order to optimize system performance and stability, we will implement all Progress Automate MFT updates and upgrades as they are released.

3.9.2 Implementation of updates and upgrades may require you to make modifications to your environment to optimize system performance and stability. Failure to make such modifications may have a negative impact on system performance or stability, for which we will not be responsible.

3.10. **Emergency Maintenance.** In the event of severe service degradation or risk of security breach, the Hosted Services may become temporarily unavailable. As we work to restore the Hosted Services, we will communicate our progress on the Status Site and refer to this Hosted Services unavailability as “Emergency Maintenance”.

4. PRODUCT SPECIFIC TERMS

This section specifies terms and conditions that are applicable to some Progress Automate MFT Subscriptions.

4.1. **Electronic Protected Health Information (ePHI) and Business Association Agreement (BAA).** We do not meet the definition of business associate as that term is defined by 45 C.F.R. Section 160.103. We do not create, receive, maintain, have access to, use, disclose or transmit protected health information (as that term is defined by 45 C.F.R. Section 160.103) to perform any service for you or on your behalf. If any arrangement between us and you results in we meeting the definition of business associate, and such arrangement does not fit within an exception to the requirement for a business associate agreement under the HIPAA regulations (45 CFR Parts 160 and 164), we will notify you in writing and execute our standard Business Associate Agreement prior to creating, receiving, maintaining, having access to, using, disclosing or transmitting Protected Health Information (“Protected Health Information” or “PHI” has the same meaning as the term “protected health information” as defined in 45 CFR 164.103) pursuant to such arrangement.