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Version effective date: March 25, 2019

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“Accessible Code” means source code contained within the Software that is licensed under an open source license.

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"OEM Distribution" means any distribution to, and/or use of the Software by, others outside Your organization and distribution and/or use of the Software as either a bundled add-on to, or embedded component of another application, with such application being made available to its users as, but not limited to, an on-premises application, a hosted application, a software-as-a-service offering or a subscription service for which the distributor of the application receives a license fee or any form of direct or indirect compensation and whether for commercial or non-commercial purposes.
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“Wrapped Application” means a single-file executable in which all binary components are encapsulated in a single binary without exposing the base programming language as a scripting language within Your own application program to end users.

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(a) Subject to the terms and conditions of this Agreement, ActiveState hereby grants to You a limited, worldwide, perpetual, paid up, free-of-charge, non-exclusive, non-transferable, non-assignable, and non-sublicensable license to install and use the Software on any computing device, in accordance with the limitations and restrictions set forth in this Agreement, for research and development purposes only. You may not use the Software Beyond Development Use, except as provided in Section 2(b) below. You may not use the Software for OEM Distribution. You may copy the Software for archival purposes or as necessary to use the Software as authorized in this section. You also may modify the Accessible Code to develop bug fixes, customizations, or additional features, for the sole purpose of using the Software as authorized by this Agreement.

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(i) transfer, assign, sublicense, resell, or rent the Software;
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(iii) reverse engineer, decompile, or disassemble (except as and only to the extent this restriction is prohibited by applicable law) the Software;
(iv) create derivative works based on the Software;
(v) merge the Software with another product;
(vi) copy the Software;
(vii) remove or obscure any proprietary rights notices or labels on the Software;
(viii) Redistribute, without entering into a separate agreement with ActiveState:  
   I. the Software as a whole, whether as a Wrapped Application or on a standalone basis;
   II. parts of the Software to create a language distribution; or
   III. the Software (other than the Accessible Code) with Your Wrapped Application;
(ix) distribute the Software by OEM Distribution without entering into a separate OEM Distribution agreement with ActiveState;
(x) permit others to use the Software; or
(xi) use the Software:
   I. Beyond Development Use on any computing device in whatever form or manner, whether physical or virtual and external or internal-facing;
   II. on any operating systems other than Windows, OSX, and Linux;
   III. on computing devices used for file and/or application serving;
   IV. on any computing devices used for business continuity and disaster recovery; or
   V. to provide content or functionality through external-facing servers or internal-facing production servers.

4. **Confidentiality.**

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(b) You acknowledge that any use or disclosure of the ActiveState Confidential Information in a manner inconsistent with the provisions of this Agreement may cause ActiveState irreparable damage for which remedies other than injunctive relief may be inadequate. You further agree that ActiveState will be entitled to attempt to receive from a court of competent jurisdiction injunctive or other equitable relief to restrain such use or disclosure in addition to other appropriate remedies.

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otherwise, provided You will not be identified in such publicly disclosed materials.

8. **Term.** This Agreement will be effective upon Your agreement to be bound by the terms and conditions of this Agreement and will continue in effect unless otherwise terminated in accordance with the terms and conditions of this Agreement.

9. **Termination.** If You breach any term or condition of this Agreement, ActiveState may immediately terminate this Agreement with respect to the Software that You have licensed under this Agreement by providing notice to You. ActiveState may also terminate this Agreement, without any liability to You, if any law, regulations, orders, or legal requirements prohibits ActiveState’s provision or licensing of the Software to You. Upon termination of this Agreement by ActiveState, You will immediately cease all use of the Software and return all copies of the Software that are under Your control to ActiveState or to delete all such copies.

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14. **U.S. Government End-Users.** The Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished rights are reserved under the copyright laws of Canada and the United States.

15. **Licensee Outside The U.S.** If You are located outside the U.S., then the following provisions will apply: (a) Les parties aux presentes confirment leur volonte que cette convention de meme que tous les documents y compris tout avis qui s'y rattache, soient rediges en langue anglaise (translation: "The parties confirm that this Agreement and all related documentation is and will be in the English language."); and (b) You are responsible for complying with any local laws in Your jurisdiction which might impact Your right to import, export or use the Software, and You represent that You have complied with any regulations or registration procedures required by applicable law to make this license enforceable.
16. **Entire Agreement.** This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this Agreement and merges all prior communications, representations, and agreements.

17. **Severability.** If any provision of this Agreement is declared invalid or unenforceable, such provision will be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision will not affect any other provision of this Agreement, and this Agreement will continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

18. **Entire Agreement & Amendment.** This Agreement constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement, appendices and attachments. ActiveState reserves the right to change this Agreement at any time, which change shall be effective as of the effective date for the terms and conditions of this Agreement as shown on ActiveState’s Website (the “Change Effective Date”). Your continued use of the Software after the Change Effective Date constitutes Your acceptance of such changes. This Agreement may not be otherwise amended without ActiveState’s prior written agreement. You agree to periodically review the terms and conditions of this Agreement as updated from time to time on ActiveState’s website.

19. **Arbitration.** Except for actions to protect intellectual property rights and to enforce an arbitrator’s decision hereunder, all disputes, controversies, or claims arising out of or relating to this Agreement or a breach thereof will be submitted to and be finally resolved by arbitration under the rules of the American Arbitration Association (“AAA”) then in effect. There will be one arbitrator, and such arbitrator will be chosen by mutual agreement of the parties in accordance with AAA rules. The arbitration will take place in Vancouver, BC, Canada, and may be conducted by telephone or online. The arbitrator will apply the laws of the Province of British Columbia, Canada to all issues in dispute. The controversy or claim will be arbitrated on an individual basis, and will not be consolidated in any arbitration with any claim or controversy of any other party. The findings of the arbitrator will be final and binding on the parties, and may be entered in any court of competent jurisdiction for enforcement. Enforcements of any award or judgment will be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Should either party file an action contrary to this provision, the other party may recover legal fees and costs up to $1,000.00.

20. **Jurisdiction and Venue.** The superior courts of Vancouver in the Province of British Columbia, Canada will be the exclusive jurisdiction and venue for all legal proceedings that are not arbitrated under this Agreement.

21. **Force Majeure.** Neither party will be liable for damages for any delay or failure of delivery arising out of causes beyond their reasonable control and without their fault or negligence, including, but not limited to, Acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures. Notwithstanding anything to the contrary contained herein, if either party is unable to perform hereunder for a period of thirty (30) consecutive days, then the other party may terminate this Agreement immediately without liability by ten (10) days’ written notice to the other.
22. **Publicity and Audit Rights.**

(a) You grant ActiveState the right to include Your name, trade name, trademark, service mark or logo in its Software promotional material. You may retract this grant at any time in writing to marcom@activestate.com, requesting Your name, trade name, trademark, service mark or logo be excluded from future releases of ActiveState Software promotional material. Requests cannot be complied with retroactively and may require up to thirty (30) days to process.

(b) If You entered into this Agreement on behalf of a Person, where such Person has more than 100 employees, if requested by ActiveState, You will furnish ActiveState with a signed certification (i) verifying that the Software is being used pursuant to the terms of this Agreement, including any user limitations and (ii) listing the locations where the Software is being used, the version(s) of the Software being used, how long and how the Software is being used, and the number computing devices and operating systems the Software is being used with. You agree to grant ActiveState reasonable access to Your site(s) and/or systems, upon prior notice during normal business hours, to audit the use of the Software. Any such audit shall be at ActiveState’s expense.

23. **Assignment.** Except as expressly provided herein, neither this Agreement nor any rights granted hereunder, nor the use of any of the Software may be assigned, or otherwise transferred, in whole or in part, by You, without the prior written consent of ActiveState. Any permitted assignment by You under this Section will be conditional upon You delivering all copies of the Software to the transferee along with a copy of this Agreement, the transferee accepting the terms and conditions of this Agreement, and Your license to the Software terminating upon transfer. Any attempted assignment by You will be void and of no effect unless permitted by the foregoing. You acknowledge and agree that ActiveState may assign this Agreement to any third party without Your prior consent.

24. **Enurement.** This Agreement will enure to the benefit of the parties’ permitted successors and assigns.

25. **Governing Law.** This Agreement will be construed under the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflict of law rules. The application of the United Nations Convention of Contracts for the International Sale of Goods and any local implementations thereof are expressly excluded. The parties agree that the Uniform Computer Transactions Act or any version thereof, adopted by any jurisdiction, in any form ("UCITA"), will not apply to this Agreement, and to the extent that UCITA may be applicable, the parties agree to opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.
Exhibit A

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