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For the avoidance of doubt, sub-sections (i) and (ii) will apply to a Party's liability for any personal data or data security breach, whether the liability arises under these License terms or under applicable law.

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#### **14. Confidential Information.**

Information exchanged by the Parties under these License Terms will be treated as confidential if it is expressly stated to be confidential or, in the circumstances and given the nature of the information, it reasonably appears to be confidential. Confidential information of a Party may only be used for purposes related to these License Terms and may be shared with the other Party's Affiliates, employees, subcontractors, agents and authorized representatives with a need to know such information to support those purposes. Each Party will protect the other Party's confidential information by using a reasonable degree of care to prevent unauthorized disclosure or use for three (3) years from the termination date of these License Terms. These obligations do not cover any information: (i) already known by, or which becomes known to, the receiving Party without an obligation of confidentiality; (ii) that has been developed by the receiving Party or its Affiliate independently of such confidential information or (iii) where disclosure is required by law or a governmental agency.

#### **15. Personal Information.**

If the Parties exchange any information that relates to an identified or identifiable individual that is considered "Personal Data" as part of any transaction made under these License Terms, the Parties will take all reasonably necessary steps to ensure that such Personal Data is transferred, processed, and handled in compliance with each Party's obligations under all applicable data protection laws. You will at all times remain the Data Controller (namely, the entity who is responsible to determine the purposes and means of processing the data) of any Personal Data that You provide to Hitachi. Hitachi will only use such Personal Data for any purposes necessary to carry out the supply of Software. Where applicable, the most current Data Privacy and Security Terms at <https://www.hitachivantara.com/en-us/pdf/legal/data-privacy-security-terms-customer.pdf> are incorporated and form part of these License Terms.

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#### **18. Disputes.**

The Parties will attempt in good faith to resolve through negotiation any dispute, claim, or controversy arising out of or relating to these License Terms. Either Party may initiate negotiations by providing written notice to the other party, setting out the subject of the dispute and the relief requested. The recipient will respond within ten (10) days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then authorized representatives of each Party will meet at a mutually agreeable time and place within fifteen (15) days of the date of the initial notice in order to resolve the dispute. If the dispute is not resolved by these negotiations, either Party may elect to pursue the dispute in a court of competent jurisdiction in the State of New York.

**19. Governing Law.** These License Terms will be governed and construed in accordance with the laws of the jurisdiction of the state of New York (without regard to its conflict of law principles), and the venue for any litigation will be the appropriate courts in Manhattan, New York. The United Nations Convention on Contracts for the International Sale of Goods and its implementing legislation will not apply to this Agreement.

**20. Fees.** Unless otherwise specified in the respective cloud marketplace, fees for Software and Software Support will be set out in Hitachi's invoice, as applicable, and are payable within thirty (30) days of the date of Hitachi's invoice without the right of any deduction, refund or set-off that is not expressly allowed in these License Terms. Failure to pay the full amount of fees as required may result in Hitachi: (i) charging interest on any overdue payments at the rate of 1.5% per month or the highest rate allowed by applicable law, if less, from the date the amounts are due until the date of payment in cleared funds; (ii) suspending delivery; and (iii) taking other actions available under these License Terms or applicable law. If there is a dispute regarding an invoice, the invoice remains payable by the due date and the dispute will be dealt with under Section 18. Hitachi is not responsible for any third party issued payment-related processing fees, such as portal service fees, cloud marketplace service fees, etc.

**21. Taxes.** To the extent that withholding, value-added or similar taxes are required, the paying Party will exercise due care to determine whether relief is available under a tax treaty and if, despite this, withholding tax applies, the Paying party will: (i) deduct the withholding from the amount due; (ii) remit to the taxing authority the withheld amount; (iii) provide all appropriate documents to the invoicing party. The paying Party may provide to the invoicing Party any resale certificate, treaty benefits exemption certificate or other exemption document required to reduce or eliminate any taxes. The Parties will co-operate and assist each other to use the documents to reduce the taxes and if it is determined that a refund of any taxes is appropriate, to enable a timely collection of the refund.

**22. Publicity.** Subject to Section 14, Hitachi may refer to You as a customer of Hitachi, both internally and in externally published media. You must not use Hitachi's name in any publication, advertisement, or public announcement, nor disclose the results, existence, or content of these License Terms, without Hitachi's prior written consent. You grant to Hitachi and its Affiliates a worldwide, royalty-free, limited right to use Your company and brand name and/or logo in promotional materials within any medium, including press releases, presentations and customer references regarding any order. Hitachi agrees to obtain Your prior written approval for publicity that contains claims, quotes,

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**25. Defense of Claims.** You will defend or settle any claim for which You have an indemnity obligation under these License Terms, at Your sole expense. If You fail to do so promptly, Hitachi may assume control of the defense of the claim at any time and You will reimburse Hitachi's reasonable expenses (including reasonable legal fees) in doing so, without limiting Your other obligations. You must not settle a claim without Hitachi's prior written approval.

**26. General Terms.**

(a) **Assignment and Transfer.** You must not sub-contract, assign, or otherwise transfer any of Your rights or obligations under these License Terms without Hitachi's prior written consent. You agree and acknowledge that Hitachi may engage subcontractors to perform any of its obligations, but Hitachi will remain responsible for their performance.

(b) **Notices.** Notices made under these License Terms must be in writing (printed or electronic format) to the appropriate representative of the recipient, as identified in these License Terms, or otherwise to a senior executive. Notices will be deemed given: (i) where they are hand delivered, when a duly authorized Personnel of the recipient gives written acknowledgement of receipt; (ii) for email communication, at the time the communication enters into the information system of the recipient; and (iii) for posting, three (3) days after dispatch.

(c) **Survival.** All rights and obligations of a Party that, by their nature, should survive the expiration of these License Terms will do so.

(d) **Waiver.** No waiver by a Party of any of its rights or remedies will be construed as a waiver by such Party of any other rights or remedies that the Party may have under these License Terms.

(e) **Modification.** Any modification to these License Terms must be in writing signed by each Party's authorized representative.

(f) **Third-party Beneficiaries.** There are no third-party beneficiaries to these License Terms.

(g) **Severability.** If any part of these License Terms is held to be invalid, illegal or otherwise unenforceable, that part will be eliminated to the minimum extent necessary, so that these License Terms will otherwise remain in full force and interpreted to reflect the original intent of the Parties.

(h) The Parties are independent contractors and there is no actual or deemed partnership, franchise, joint venture, agency, employment or other fiduciary relationship between the Parties.

(i) Hitachi may withhold or rescind any of its rights of approval or consent at Hitachi's sole and absolute discretion.

(j) The singular includes the plural and vice versa. All grammatical forms of a defined term are given a corresponding meaning. Words such as

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(k) **Conflicts.** If there is a conflict among the following documents, then this descending order of precedence will apply: (i) these License Terms; (ii) Software support and fees as specified in the respective cloud marketplace; (iii) the Online Terms, as applicable; (iv) a Hitachi quote or other proposal; (iv) any other documents comprising the order.

(l) **Force Majeure.** Neither Party will be liable for performance delays nor for non-performance (including suspension) due to causes beyond its reasonable control, except for payment obligations.

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