

## DATA PROTECTION AGREEMENT

### 1. Introduction

This Data Protection Agreement (the “**DPA**”) reflects the Parties’ agreement with respect to the Processing of Hitachi’s Personal Data by Supplier under the Master Professional Services Agreement including any SOWs thereunder (collectively, the “**MPSA**”). Each Party agrees that it has the ability and full legal authority to perform its obligations under this DPA.

### 2. Definitions

Unless expressly defined in this DPA, all capitalized terms shall have the same meaning as in the MPSA. In this DPA, the following terms have the following meanings:

**Adequate Country:** a country or an international organization that the European Commission has determined, by means of an implementing act, ensures an adequate level of protection under Data Protection Laws, including Article 45 of the General Data Protection Regulation.

**Data Protection Laws:** the data protection laws and regulations from time to time in force in each jurisdiction where Personal Data is Processed by Supplier.

**Data Protection Authorities:** the relevant statutory authority in each jurisdiction where Personal Data is Processed by Supplier.

**Effective Date:** the effective date of the MPSA.

**Minimum Protection Measures:** means the technical and organizational measures specified in Exhibit D to the MPSA (Information Security Requirements).

**Personal Data:** personal information about an identifiable person, which is Processed by Supplier for or on behalf of Hitachi for the Purpose.

**Processing:** any operation or set of operations which is performed on Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Purpose:** fulfilment of the Parties’ obligations in the MPSA.

**Sell:** selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, personal information to a third party for monetary or other valuable consideration.

**Standard Contractual Clauses:** incorporated herein as Schedule 1 to the DPA, as applicable or identified in the MPSA.

**Sub-processor:** any third party engaged by Supplier or by Supplier’s contractor or agent, which Processes Hitachi Personal Data for or on behalf of Supplier for the Purpose.

**Term:** commences upon the Effective Date and remains in effect continuously until the latest of: (i) the termination or expiration of the MPSA; (ii) such time as Supplier ceases to be authorized by Hitachi to Process Personal Data; or (iii) such time as Supplier (or its Sub-processor) ceases Processing Personal Data.

### 3. Supplier’s Obligations

(a) At all times, Supplier shall treat Personal Data as Confidential Information and shall require all of its Personnel and Sub-processors with access to Personal Data to do the same.

(b) At all times, Supplier shall comply with: Data Protection Laws to the full extent applicable to such Personal Data; and the obligations imposed on it in this DPA.

(c) Supplier shall only Process Personal Data for the Purpose and only in accordance with the written instructions of Hitachi, which include the MPSA and this DPA.

(d) As between the Parties, all Personal Data and derivations thereof, whether or not in deidentified, anonymized, or aggregate form, shall at all times be the property of Hitachi.

(e) Supplier shall ensure that all of its Personnel or Sub-processors performing under this DPA are: (i) required to complete annual data protection training and (ii) subject to contractual terms at least as protective of Personal Data as those in this DPA.

(f) Supplier shall ensure that access to Personal Data is limited to the Personnel or Sub-processor(s) of Supplier who require access for the Purpose. Such access shall be limited in scope to the minimum amount of Personal Data necessary for the Purpose.

(g) Supplier shall implement appropriate technical and organizational measures to protect Personal Data, including against a Security Breach. For the longer of: (i) the Term of this DPA; or (ii) any time period for which Supplier Processes, controls or possesses Personal Data; such measures shall be at least as protective as the Minimum Protection Measures.

(h) Supplier shall not, directly or indirectly: divulge; make public; or otherwise disclose Personal Data to any third party, except after obtaining the express written consent of Hitachi. To the extent permitted by applicable law, Hitachi reserves the right, in its sole discretion, to condition such consent upon Supplier's acceptance of additional terms.

(i) Supplier shall not receive or transfer any Personal Data outside of the EEA unless: (i) the receiving territory is an Adequate Country; (ii) Supplier has entered into Standard Contractual Clauses sufficient to enable such transfer; (iii) the receiving party has sufficient binding corporate rules; or (iv) the receiving party is certified to the EU-U.S. Privacy Shield Framework and maintains such certification continuously throughout the Term.

(j) Supplier shall notify Hitachi without undue delay upon Discovery that Supplier or its Sub-processor has failed to comply, or is otherwise unable to comply, with one or more of its obligations under this DPA. In the event of such non-compliance and without limiting any other remedies available to Hitachi under this DPA or applicable law, Hitachi may instruct Supplier to cease Processing Personal Data, and Supplier shall comply with Hitachi's reasonable directions regarding the Personal Data in Supplier's possession or control.

(k) Supplier shall promptly, and in any event within forty-eight (48) hours of Discovery by Supplier, notify Hitachi of any inquiries, investigations, complaints, and claims by third parties (including Data Protection Authorities) that relate to Personal Data. Supplier shall provide reasonable cooperation with Hitachi as necessary for Hitachi to respond to such third parties.

(l) Supplier shall comply with applicable decisions of Data Protection Authorities, arbitrators, or courts relating to the Processing of Personal Data.

(m) To the extent the California Consumer Privacy Act of 2018, codified at Cal. Civ. Code §1798.100 *et seq.* is applicable, Supplier affirms that it shall not: (i) Sell Personal Data; (ii) retain, use, or disclose Personal Data for any purpose, whether commercial or not, other than performing its obligations under the MPSA; or (iii) retain, use, or disclose Personal Data outside of the direct business relationship between Hitachi and Supplier. By executing the MPSA, Supplier certifies that it understands and shall comply with the terms of this Section 3(m).

#### **4. Data Subject Requests**

(a) In the event Supplier receives a data subject request related to Personal Data, Supplier shall forward all details related to such request to Hitachi at [privacy@hitachivantara.com](mailto:privacy@hitachivantara.com) within forty-eight (48) hours of Supplier's receipt. Supplier shall not respond to data subject requests related to Personal Data.

(b) Unless otherwise agreed in writing by the Parties, Supplier shall, at no additional cost to Hitachi, comply with Hitachi's reasonable requests related to Hitachi's compliance with applicable Data Protection Laws and Hitachi's handling of data subject requests related to Personal Data. This includes, but is not limited to, Supplier's cooperation with Hitachi to address privacy complaints and meet individual data subjects' lawful requests with respect to Personal Data.

#### **5. Sub-Processing**

(a) Supplier has Hitachi's general authorization for the engagement of sub-processors. The Supplier shall inform Hitachi in writing of any changes to the appointment of sub-processors by submitting a Sub-processor Request, as below in Section 5(b) of this DPA below. The Sub-processors listed in this DPA or identified in the MPSA are deemed approved by Hitachi as of the Effective Date.

(b) At least 30 days prior to engaging a new Sub-processor, Supplier shall submit to Hitachi a "**Sub-processor Request**" describing in detail (i) the intended Sub-processor, (ii) the scope of services and obligations to be sub-contracted, (iii) the categories of Personal Data to be Processed by the intended sub-processor, and (iv) the method by which the intended Sub-processor would access or receive Personal Data. Supplier shall respond promptly to any request by Hitachi for additional information about the intended Sub-processor.

(c) Hitachi may, within 30 days of receiving such Sub-processor Request, notify Supplier of its objection to the new Sub-processor. Objection to any new Sub-processor is at Hitachi's sole discretion, without need for justification. To the extent Hitachi objects to a new Sub-processor, the Parties shall, in good faith, attempt to find a mutually acceptable resolution within 30 days of Hitachi's objection. If Hitachi does not object to the new Sub-processor within the 30-day period outlined in this Section, Supplier may deem Hitachi to have no objection to the new Sub-processor.

(d) To the extent Supplier engages Sub-processors, it will do so only by way of a written agreement with the Sub-processor on terms which are no less restrictive on the Sub-processor than are imposed on the Supplier under this DPA. At all times, Supplier shall remain fully liable to Hitachi for the performance of the Sub-processor.

(e) Notwithstanding anything else in this DPA, Supplier agrees that it shall not appoint any Sub-processor if Supplier is not satisfied on reasonable grounds that the Sub-processor protects Personal Data with technical and organizational security measures that are at least as protective as the Minimum Protection Measures. Supplier shall take steps to ensure that such technical and organizational security measures are employed by Sub-processor during any Processing of Personal Data.

**6. Termination**

(a) Supplier shall, at Hitachi's reasonable election, promptly return or destroy Personal Data Processed on behalf of Hitachi at the end of the Term. If Hitachi requests that Supplier destroy Personal Data, Supplier shall, within thirty (30) days of Hitachi's request, certify in writing that it (i) destroyed the Personal Data so as to render the data unreadable and (ii) confirmed that any Sub-processors have done the same.

(b) Unless otherwise agreed in writing by the Parties, such return or destruction shall be completed within ten (10) days after the end of the Term.

**7. Miscellaneous**

(a) The invalidity or unenforceability of any part of this DPA for any reason whatsoever will not affect the validity or enforceability of the remainder.

(b) Except as permitted by Section 5 of this DPA, Supplier shall not transfer its obligations under this DPA without Hitachi's prior written consent.

(c) This DPA, together with the MPSA, constitutes the entire agreement and understanding between the Parties with respect to its subject matter and replaces all previous agreements between, or understandings by, the Parties with respect to such subject matter. In the event of any conflict or inconsistency between the terms of this DPA and those of the MPSA, the terms of this DPA will be controlling to the extent of the conflict. This DPA may not be modified except in writing executed by both Parties.

(d) This DPA is entered into for the benefit of the individuals whose Personal Data is Processed by Supplier and any such individual is hereby entitled to enforce this DPA as a third-party beneficiary.