

DATA PRIVACY AND SECURITY TERMS

1. Introduction

These Data Privacy and Security Terms (the “**DPS Terms**”) along with any additional terms attached to or incorporated by reference, apply to and form part of Your supply agreement with Hitachi or a Hitachi authorized distributor or reseller partner (“**Hitachi Partner**”) for the purchase of Hitachi products and services (“**Agreement**”). References to “Hitachi” mean Hitachi Vantara LLC or its Affiliate, which may be Hitachi, Ltd., or any business entity controlled by or under the common control of Hitachi Vantara or Hitachi, Ltd.

The parties agree that Hitachi is not expected to Process Personal Data under the Agreement, however, in the event that Hitachi is required to Process Personal Data on Your behalf, these DPS Terms will apply. These DPS Terms will apply to, and should be read together with the Agreement, if applicable.

2. Definitions

Unless expressly defined in these DPS Terms, all capitalized terms shall have the same meaning as in the Agreement. In these DPS Terms, the following terms have the following meanings:

Data Controller: means any of the parties which alone or jointly with others determines the purposes and means of processing the Personal Data.

Data Protection Laws: means any applicable laws relating to the processing of Data Importer’s Personal Data.

Data Processor: the party which processes personal data on behalf of the Data Controller.

Personal Data: personal information about an identified or identifiable person, which is Processed by a party under the Agreement or these DPS Terms.

Process or 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.

Security Breach: any accidental or unauthorized access, destruction, disclosure, modification or transfer of Personal Data.

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.

Sub-processor: any third party engaged by a processor of personal data, which Processes Personal Data for or on behalf of the processor for under the Agreement or these DPS Terms.

Standard Contractual Clauses: the standard contractual clauses for data transfers between the European Economic Area and certain non-European Economic Area jurisdictions, promulgated by the EU Commission Decision 2021/914/EU incorporated herein by reference.

3. Hitachi’s Obligations

(a) At all times, Hitachi 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. Hitachi will not directly or indirectly divulge, make public, or otherwise disclose Personal Data to any third party, except after obtaining Your express written consent. Access to Personal Data will be limited in scope to the minimum amount of Personal Data and for a period of time necessary under the Agreement or these DPS Terms.

(b) Hitachi will remain at all times the data controller for any personal data that Hitachi provides to You. Hitachi is responsible for compliance with its obligations as the data controller under Data Protection Laws only in respect of personal data supplied by it to You for processing. Hitachi’s obligations for Personal Data it Processes under this Agreement will only be that of a Data Processor as prescribed by the Data Protection Laws.

(c) Hitachi will comply with Data Protection Laws to the full extent applicable and the obligations imposed on it in these DPS Terms. Hitachi shall only Process Personal Data to the extent necessary under the Agreement or these DPS Terms and only in accordance with Your written instructions, which include the Agreement and these DPS Terms.

(d) Hitachi will promptly notify You of any inquiries, investigations, complaints, and claims by third parties that relate to Personal Data. Hitachi shall provide reasonable cooperation with You as necessary for You to respond to such third parties.

(e) To the extent the California Consumer Privacy Act of 2018, codified at Cal. Civ. Code §1798.100 et seq. is applicable to the Processing of Personal Data, Hitachi 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 Agreement or these DPS Terms; or (iii) retain, use, or disclose Personal Data outside of the direct business relationship between the parties.

4. Your Obligations

(a) The parties agree that, for the Personal Data provided by You to Hitachi under these DPS Terms, You will be the Data Controller and the Hitachi shall be the Data Processor.

(b) You will comply with all Data Protection Laws in connection with the controlling of Personal Data and the exercise and performance of its respective rights and obligations under these DPS Terms.

(c) You will assure that Your instructions and usage of Hitachi products and services under the Agreement or these DPS Terms comply with Data Protection Laws. Your instructions will not cause Hitachi to be in breach of the Agreement, Data Protection Laws, or other applicable laws.

5. Data Subject Requests

(a) In the event Hitachi receives a data subject request related to Personal Data, Hitachi will provide reasonable assistance to You in responding to any request from a Data Subject and in ensuring compliance with Your obligations under applicable Data Protection Laws. As permitted by law and as set forth in the applicable Order, Hitachi will be compensated for time and costs expended to provide such assistance.

(b) Unless otherwise agreed in writing by the parties, You will, 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, Your cooperation with Hitachi to address privacy complaints and meet individual data subjects' lawful requests with respect to Personal Data.

6. Cross-Border Transfers

If the Processing of Your Personal Data involves a data transfer across national borders, Hitachi will take measures to ensure such transfer is compliant with Data Protection Laws. Such measures may include entering into the EU Standard Contractual Clauses where appropriate.

7. Sub-Processing

(a) You provide general authorization to appoint Sub-processors in accordance with this Section and the Agreement. Hitachi may continue to use the Sub-processors engaged by Hitachi as of the effective date of the Agreement until the later of the termination of the Agreement or its Processing activities under these DPS Terms.

(b) Hitachi may engage additional or alternative Sub-processors under the term of the Agreement without prior notice to You. Upon Your written request, Hitachi will provide you written notice of the appointment of any new Sub-processor, including all necessary details of the Processing to be undertaken by the Sub-processor. If, within seven (7) days of the date of that notice, You notify Hitachi in writing of any objections (on reasonable grounds) to Hitachi's use of a Sub-processor, Hitachi will cease utilizing (or disclosing Personal Data to) that Sub-processor until reasonable steps have been taken to address the objections raised by You. If the parties cannot reach agreement on a new Sub-processor within thirty (30) days from the date of that notice, Hitachi may terminate the relevant services without incurring any liability. In such event, You will pay Hitachi for the relevant services performed, up to and including the effective date of termination, plus any early payments or fees that become due under the Agreement or relevant Order.

(c) To the extent Hitachi engages Sub-processors, it will do so only by way of a written agreement with the Sub-processor on terms with a similar level of protection as imposed on Hitachi under these DPS Terms. At all times, Hitachi will require that Sub-processors are capable of providing the level of protection for Personal Data required by Data Protection Laws and this Addendum.

8. Security Breach

(a) Each party will promptly report any Security Breach to the other party by providing: (i) oral notice as soon as reasonably practicable and no later than forty-eight (48) hours after discovery; and (ii) a follow-up, written report as soon as reasonably practicable and no later than ten (10) days after discovery. The written report will include, to the extent the information is currently available, identification of affected individuals and any other information that is legally required for a notice of Security Breach under applicable law. The report will be promptly updated by the reporting Party, as new material information is discovered, and the updated report will be promptly provided to the other Party.

(b) Each Party will cooperate in any Security Breach investigation that the other Party conducts or is involved in and will take reasonable measures to mitigate any harmful effects of any Security Breach, of which it becomes aware.

(c) The parties agree and acknowledge that the Data Controller will determine, in its sole discretion, which Party will provide notice to affected individuals of a Security Breach and the content, timing and method of delivery of the notice.

9. Termination

Upon expiration or termination of the Agreement, the Data Importer will make reasonable efforts to delete or destroy, and will make reasonable efforts to instruct any Sub-processors to delete or destroy, the other Data Controller's Personal Data in accordance with the Agreement or, where agreed in advance, Data Processor will return Personal Data to Data Importer. Notwithstanding the foregoing, the parties may retain copies of Personal Data where required by relevant Data Protection Laws and may also do so in accordance with its legally compliant internal data retention policies where permitted by relevant Data Protection Laws.

10. Liability

To the extent permitted under applicable law, the parties' total liability under these DPS Terms for all claims arising hereunder will be subject to the limitations set forth in the Agreement.

11. Miscellaneous

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

(b) Unless expressly permitted under these DPS Terms, the parties will not transfer their obligations under these DPS Terms without the other party's prior written consent.

(c) These DPS Terms, together with the Agreement, 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 these DPS Terms and those of the Agreement, the terms of these DPS Terms will be controlling to the extent of the conflict. These DPS Terms may not be modified except in writing executed by both parties.

(d) These DPS Terms is entered into for the benefit of the individuals whose Personal Data is Processed under the Agreement and any such individual is hereby entitled to enforce these DPS Terms as a third-party beneficiary.