

## HITACHI ENERGY GENERAL TERMS AND CONDITIONS IT RESELLER (2022-4 STANDARD)

### BACKGROUND:

(A) The Supplier is in the business of providing computer software, hardware and associated cloud services, including the Products.

(B) The Reseller wishes to obtain and the Supplier wishes to provide the Products for the purpose of reselling the Products to End Users, on the terms set out in these Hitachi Energy General Terms and Conditions IT Reseller.

### 1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply.

#### 1.1 Definitions.

**Affiliate:** means any entity, whether incorporated or not, which presently or in the future, directly or indirectly Controls, is Controlled by, or is under common Control with a Party;

**Annex:** means an annex to the Order, which sets out the Specification or other terms as agreed between the Parties;

**Certificate:** means the general document certified by a competent authority that the supplied good or service meets the required specifications;

**Charges:** means the charges payable by Reseller for the Products, as set out in an Order;

**Cloud Services:** means those Products provided by Supplier which are indicated in the Order as being provided on a "Software as a Service", "Platform as a Service", "Infrastructure as a Service", "Subscription" or "Cloud" basis;

**Contract:** means a written agreement and/or the Order for the purchase of Products by Reseller from Supplier which shall incorporate by reference these GTC, the terms of the applicable Specific Schedule(s), and any other documents submitted by Reseller to form part thereof, such as any specifications (which shall include any Supplier specifications where Reseller agrees to use, or places an Order relying on, such specifications);

**Combined Product:** means a Reseller product that uses or is combined with the Products;

**Control:** means in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise;

**Device Data:** means any information or data generated or gathered (whether automatically or not) by a Product or a Combined Product and which relates to the operation and working of such product, for example device diagnostics and device health data;

**Document:** includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

**Documentation:** means the documentation provided to Reseller by Supplier in connection with the Product, including the Specification and any user manuals or other documentation provided under a Contract, and including any documentation described in the Order;

**End User:** means a party deriving or making use of the Products either directly or through the Reseller;

**End User Contract:** means the order forms or agreement entered into between the Reseller and its End Users which relate to the supply of Products to End Users;

**GTC:** means these Hitachi Energy General Terms and Conditions IT Reseller (2022-4 Standard) as may be updated by the Customer from time to time and as published on the Customer's website from time to time. A Specific Schedule shall, if applicable, be part of these GTC and, in case of a conflict, take precedence;

**Hardware:** means the hardware to be provided by Supplier, as set out in the Order;

**Intellectual Property Rights:** means (a) Patents, copyrights, database rights and rights in trademarks, trade names, designs, Know-how, and invention disclosures (whether registered or unregistered); (b) applications for registration, reissues, confirmations, renewals, extensions, divisions or continuations for any of these rights; and (c) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

**Know-how:** means all technical, scientific and other information, inventions, discoveries, trade secrets, knowledge, technology, means, methods, processes, practices, formulae, instructions, skills, techniques, procedures, expressed ideas, technical assistance, designs, drawings, assembly procedures, computer programs, apparatuses, specifications, data, results, safety, manufacturing and quality control data and information (including process designs and protocols), registration dossiers and assay and methodology, in each case, solely to the extent confidential and proprietary and in writ-ten, electronic or any other form now known or hereafter developed;

**Malicious Software:** means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on hardware, program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced willfully, negligently or without knowledge of its existence and includes computer programs commonly referred to as virus, worm, Trojan horses, time or logic bombs, backdoors and disabling codes or routines;

**Modification:** means any maintenance release or Reseller specific modification;

**Order:** means Reseller's formal purchase order document issued to Supplier for the Products entered into between the Parties in accordance with Clause 4, including any formal purchase order document issued electronically;

**Party:** Reseller or Supplier, collectively the Parties;

**Patents:** means (a) issued patents and utility models, patent and utility model applications, and future patents and utility models issued from any such patent and utility model applications; (b) future patents and utility models issued from a patent and utility model application filed in any country worldwide which claims priority from a patent and utility model or patent and utility model application of (a); and (c) reissues, confirmations, renewals, extensions, counterparts, divisions, continuations, continuations-in-part, supplemental protection certificates on any patent and utility model or patent and utility model application of (a) or (b);

**Personal Data:** means information of an identified or identifiable individual or any other data which is subject to applicable data protection laws and regulations;

**Products:** means the Software, Hardware, Services or Cloud Services provided by Supplier under a Contract as set out in an Order;

**Reseller:** means the reseller entity which enters into the Order with Supplier;

**Reseller Group:** means (i) Reseller; (ii) Reseller's Affiliates; and (iii) any other Reseller entities listed in the Order;

**Reseller Materials:** means any data, text, drawings, diagrams, images, Documents or other information which: a) are received or ac-quired by Supplier from or on behalf of any member of the Reseller Group in the course of providing the Products; b) are supplied to Supplier by or on behalf of any member of the Reseller Group or an End User in connection with these GTC; or c) Supplier is required to generate, process, store or transmit

pursuant to a Contract, and includes any personal data for which any member of the Reseller Group is the data controller;

Services: means the support and maintenance services provided with regard to or in connection with the Software. Services shall explicitly not include any managed, consulting, professional, installation, configuration, implementation, education or other services;

Service Credit: means an amount payable by Supplier to Reseller as a service credit in accordance with Clause 8.4 and the Order;

Service Levels: means the service levels, if any, applicable to the Products, as set out in the Order;

Service Level Failure: is defined in Clause 8.2;

Specific Schedule: means a schedule to these GTCs which applies only to certain Products provided by Supplier, as identified in an Order and/or the Specific Schedule itself;

Software: means the computer programs listed in the Order or otherwise delivered or made available to End User and all Documentation in respect of such programs and any Modification which is provided during the term of a Contract;

Specification: means the specification for the Products as set out in the Order;

Supplier: means the party to the Order indicated to be the Supplier;

Supplier's Team: means all employees, consultants, agents and subcontractors which it engages in relation to the Products; and

Third Party Provider: means any contractor, agent or third party who provides hardware, software or services to any member of the Reseller Group.

VAT: means any value added tax or equivalent sales tax imposed by law.

## 1.2 Interpretation:

1.2.1 Any reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted

1.2.2 Any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.

1.2.3 All headings are for ease of reference only and will not affect the construction or interpretation of these terms.

1.2.4 References to Clauses are references to clauses of the GTC.

1.2.5 Unless the context otherwise indicates, words used in the singular include the plural and vice versa.

1.2.6 In the event of a conflict between these GTC and any other document incorporated into the Contract, the order of precedence will be as follows: a) any terms of the Order that specifically and explicitly amend specific Clauses of these GTC or applicable Specific Schedule; b) any applicable Specific Schedule; and c) these GTC.

## 2. TERM

2.1 Supplier shall provide the Products from the date specified in the relevant Order.

2.2 A Contract shall continue as specified in the relevant Order, unless it is terminated in accordance with Clause 19.

## 3. ORDER PROCESS

3.1 The Order shall reference and incorporate these GTC and be deemed to be accepted on the earlier of:

3.1.1 Supplier and Reseller having issued written acceptance of the Order (including any electronic signature or acceptance of the Order); or

3.1.2 any act by Supplier consistent with fulfilling the Order issued by Reseller,

- at which point and on which date the Contract shall come into existence.

3.2 These GTC apply to the Contract to the exclusion of any other terms that Supplier seeks to impose or incorporate (including any terms or conditions set out in the Annex), or which are implied by trade, custom, practice or course of dealing.

## 4. RESALE OF THE PRODUCTS

4.1 The Reseller may:

4.1.1 use the Products in order to deliver services to its End Users; and

4.1.2 resell or sub-license the Products, including as Combined Products, to End Users,

- pursuant to the terms of a Contract.

4.2 Any resale or sub-license of the Products by the Reseller shall be on terms and conditions to be determined by the Reseller in its sole and absolute discretion, provided that such terms and conditions in the End User Contract shall be no less restrictive than the terms of the Contract as it relates to the use of the Products.

4.3 Where the Reseller resells or sub-licenses the Products to an End User, it shall do so only on the condition that any End User shall be considered the Reseller's customer and the credit and collection risk is with Reseller.

## 5. SUPPLIER RESPONSIBILITIES (GENERAL)

5.1 Supplier shall provide the Products to Reseller or End-User as indicated in an Order, in accordance with these GTC and the applicable Order.

5.2 Supplier shall deliver the Products in a timely manner and meet any performance dates specified in an Order.

5.3 Supplier shall:

5.3.1 co-operate with the Reseller Group in all matters relating to the Products; and

5.3.2 ensure that Supplier's Team use reasonable skill and care in the production and delivery of the Products.

5.4 Supplier confirms that any Certificate for the Products may be shared with End Users. In the event that a Certificate is needed in an End User country where Supplier has not yet obtained the relevant Certificate, Supplier will either provide the Certificate or allow Reseller to apply for such Certificate on Supplier's behalf. For the purpose of obtaining a Certificate, Reseller may share Confidential Information of Supplier with any authority or any organisation performing certification on behalf of such authority.

5.5 Supplier shall:

5.5.1 comply with, and ensure that Supplier's Team comply with, all health and safety rules and regulations and any other reasonable requirements that apply at any of the Reseller Group's premises and that have been communicated to it. In case Supplier's Team fails to accept or comply such rules, regulations or requirements, Reseller reserves the right to refuse Supplier's Team access to the Reseller Group's premises, which shall only be given to the extent necessary for the delivery of the Products;

5.5.2 notify Reseller as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Products or any other issues or circumstances which may reasonably be expected to jeopardise the timely provision of the Products; and

5.5.3 before the date on which the Products are to be delivered, obtain, and at all times maintain during the term of the Contract, all necessary licenses and consents and comply with all relevant legislation in relation to the Products and the performance of its obligations under the Contract.

5.6 Supplier shall comply with, and ensure that Supplier's Team comply with, any security procedure, policy or standard provided to Supplier by any member of the Reseller Group from time to

time or as otherwise set out in the Order; and in particular with the Hitachi Energy Cyber Security Requirements for Suppliers as made available under [www.hitachienergy.com/about-us/supplying](http://www.hitachienergy.com/about-us/supplying) - **Supplier Cyber Security**, or as otherwise set out in an Order;

5.7 Supplier shall comply with any additional responsibilities and/or obligations as set out in the applicable Specific Schedule or the Order.

## 6. ACCEPTANCE OF PRODUCT

6.1 Except where the Order sets out an acceptance procedure in respect of particular Products and subject to Clause 7 the acceptance procedure and period shall be as set out in the applicable Specific Schedule.

## 7. WARRANTIES (GENERAL)

7.1 Supplier warrants to each member of the Reseller Group that:

7.1.1 the Products will conform with all descriptions, Documentation and Specifications as set out in the Order;

7.1.2 the Products will be provided in accordance with all applicable legislation, and Supplier will inform Reseller as soon as it becomes aware of any changes in that legislation where it affects Supplier's ability to provide the Products;

7.1.3 Supplier will not insert or include, or permit or cause any person or software to insert or include, any Malicious Software into the Software as a whole or any individual Modification;

7.1.4 unless otherwise agreed in an Order, the Products will not send any Device Data or End Customer data to Supplier; and

7.1.5 the services will be performed with reasonable care and skill and in accordance with best commercial practices and standards in the industry.

7.2 Without prejudice to any other right or remedy Reseller may have, in the event that Supplier commits any breach of any warranties (including any set out in a Specific Schedule) it shall within a reasonable time specified by Reseller, on receiving notice from Reseller, correct any defect or deficiency in the Product. If Supplier fails or is unable to do so, Reseller shall be entitled to return the relevant Product and, where this has a material effect on the Contract as a whole, terminate the Contract for material breach and claim damages in accordance with Clause 18.

7.3 The provisions of this Clause 7 shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any substituted or remedial Products provided by Supplier.

## 8. SERVICE LEVELS

8.1 Supplier must provide Products, which meet or exceed the Service Levels.

8.2 If Supplier fails to provide any of the Products in accordance with the Service Levels ("Service Level Failure"), it must promptly notify Reseller in writing.

8.3 As soon as practicable after notification under Clause 8.2 (and, in any event, within the period specified in the Order), Supplier must:

8.3.1 perform a root-cause analysis to identify the cause of the Service Level Failure;

8.3.2 allocate such resources as may be necessary to remedy the Service Level Failure and any consequences; and

8.3.3 provide Reseller with a written report detailing the cause of, and procedure for correcting, the Service Level Failure and any consequences.

8.4 If, in any month, a Service Level Failure occurs and the Order provides for Service Credits to accrue in respect of such failure, Supplier must deduct those Service Credits from its next invoice (or, where no further invoices are due, Supplier must pay an amount equal to such Service Credits within thirty (30) days after a written demand for payment from Reseller). The Parties

agree that the payment of Service Credits is without prejudice to any other remedy available to Reseller whether under the Contract or otherwise.

8.5 If Supplier fails any Service level for any four months (whether or not consecutive) within a calendar year, Reseller may terminate the Contract.

## 9. RESELLER'S OBLIGATIONS

9.1 Reseller shall:

9.1.1 co-operate with Supplier in all matters relating to the Products;

9.1.2 provide access to Reseller premises and data, and such office accommodation and other facilities as may reasonably be requested by Supplier and agreed with Reseller in writing in advance, for the purpose of providing the Products;

9.1.3 provide the Reseller Material, necessary to provide the Products, as set out in the Order or otherwise in a timely manner after Supplier's reasonable request;

9.1.4 inform Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of Reseller premises; and

9.1.5 comply with any additional responsibilities as set out in the relevant Order.

9.2 If Supplier believes a failure by Reseller to perform its obligations has an adverse effect on Supplier's ability to perform its obligations in accordance with the Contract, Supplier shall promptly notify Reseller. Any such notice shall include at least a description of Reseller's failure in reasonable detail and a description of the effects on the Products, in particular the extent of potential delay and estimated additional costs, if any. Supplier shall use all reasonable efforts to perform its obligations on time notwithstanding Reseller's failure to perform and assist Reseller to remedy its failure.

## 10. BILLING AND PAYMENT

10.1 In consideration for the provision of the Products, Reseller shall pay to Supplier the Charges in accordance with this Clause 10 and as set out in the Order. The Charges are inclusive of all fees and taxes (other than VAT or equivalent).

10.2 Supplier shall invoice Reseller for the Charges in accordance with the relevant provisions of the applicable Specific Schedule, and the relevant Order. Invoices shall comply with applicable laws, generally accepted accounting principles and the specific requirements of Reseller (as notified to Supplier from time to time), and at all times contain the following minimum information: Supplier name, address and reference person including contact details; invoice date; invoice number; Order number and Supplier number; address of Reseller; quantity; specification of the Products; charges (total amount invoiced); currency; tax or VAT amount; tax or VAT number; payment terms as agreed.

10.3 Invoices must be sent to the billing address specified in the Order.

10.4 Reseller will reimburse expenses only at cost and to the extent agreed in writing.

10.5 Unless otherwise agreed in a specific Order, Reseller shall make payment of undisputed invoices within ninety (90) days after the latest of (i) from receipt of the invoice complying with this Clause 10 or (ii) the date of delivery of Products. Reseller may accumulate all invoices until end of a calendar month (EOM) in accordance with Reseller's invoice handling process: <https://www.hitachienergy.com/about-us/supplying/supplier-invoicing>.

10.6 If an invoice received by Reseller is not paid by the due date, Supplier may give notice in writing that the amount is overdue. Thirty (30) days after receipt of notice, unless the payment is disputed in good faith by Reseller, Supplier may charge interest at the rate of 4% per annum on any unpaid and undisputed amount, from the date payment fell due (or such

other date as may be agreed in writing between the Parties), until receipt of the amount owed. Supplier acknowledges and agrees that this Clause 10.6 provides Supplier with a substantial remedy in respect of any late payment of sums due under any Contract.

10.7 Reseller reserves the right to set off or withhold payment for Products not provided in accordance with the Contract.

## 11. IPR OWNERSHIP

11.1 Subject to Clause 12 below and anything to the contrary in the applicable Specific Schedule(s) or as agreed in a particular Order, as between Reseller and Supplier, all Intellectual Property Rights in the Products shall be owned by Supplier. Supplier grants to the Reseller Group for the term as indicated in the Order a non-exclusive, worldwide, irrevocable license to resell the Products as standalone and Combined Products together with Reseller's products and to permit its End Users to use the Products, including as Combined Products. Such license shall include the right to have any third party exercise such rights for the benefit of Reseller and Reseller Group.

11.2 Supplier represents and warrants that, if it has used or uses open source software or the Product contains open source software, Supplier has used, modified, and/or further developed the open source software in full compliance with the underlying license terms and conditions and such open source software (a) has no negative effect on Reseller Group's Intellectual Property Rights regardless of how such open source software is utilized, (b) will not subject Reseller Group's products to any open source software licensing terms, regardless of how such open source software is utilized, and (c) will not include any terms that restrict Reseller Group's full freedom of action, including any use restrictions.

11.3 Supplier grants to the Reseller a temporary, royalty-free, non-exclusive license to use the trademarks of Supplier which are connected with the Products ("Supplier Trademarks") subject to the following conditions:

11.3.1 the Reseller shall only use the Supplier Trademarks as necessary for the purposes of performing its obligations under the Contract;

11.3.2 the license granted pursuant to this Clause 11.3 shall terminate on expiry or termination of a Contract.

11.4 Subject to anything to the contrary agreed in a particular Order, Supplier assigns to Reseller, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in all modifications of the Products which have been made by or specifically for Reseller.

11.5 At its own expense, Supplier shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to a Contract, including securing for Reseller all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to Reseller in accordance with Clause 12.

11.6 The Parties acknowledge and agree that at all times the Reseller Materials shall be the property of the applicable member of the Reseller Group. Nothing in the Contract shall transfer any right or title in the Reseller Materials to Supplier. Reseller grants to Supplier a license to use the Reseller Materials free of charge and on a non-exclusive, worldwide, basis solely to such extent as is necessary to enable Supplier to provide the Products.

## 12. IPR WARRANTY AND INDEMNITY

12.1 Supplier represents and warrants that:

12.1.1 the supply, or use by the Reseller Group or any Third Party Provider, of any Product, Software (including any Cloud Services), Hardware or Documentation or any other deliverables or content applicable to the scope of the Contract;

12.1.2 the assignment or grant of any license of any Intellectual Property Rights under the Contract; or

12.1.3 the provision, or the Reseller Group or any Third Party Service Provider taking the benefit, of any of the Products,

- will not infringe the Intellectual Property Rights of any person or entity.

12.2 Supplier shall indemnify and hold each member of the Reseller Group harmless from and against all costs, claims, demands, liabilities, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with any alleged or actual infringement under any law, of any third party's Intellectual Property Rights (alone or in combination) or other rights arising out of the Products or use of the Software, the Hardware or the Cloud Services.

12.3 If any third party makes a claim, or notifies an intention to make a claim, against Reseller which may reasonably be considered likely to give rise to a liability under the indemnity in Clause 12.2 (a "Claim"), Reseller shall:

12.3.1 as soon as reasonably practicable, give written notice of the Claim to Supplier, specifying the nature of the Claim in reasonable detail;

12.3.2 not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of Supplier (such consent not to be unreasonably conditioned, withheld or delayed);

12.3.3 reasonably cooperate with Supplier and its professional advisers on reasonable prior notice and at Supplier's cost, so as to enable Supplier and its professional advisers to assess and defend the Claim; and

12.3.4 subject to Supplier providing security to Reseller to Reseller's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.

12.4 Supplier shall not have any liability for any claim of infringement of Intellectual Property Rights if and to the extent the claim arises due to the incorporation of Reseller Material into the Product or due to Supplier following Reseller specific instructions in developing the Product against Supplier's professional advice.

12.5 If a Claim is made, Supplier may, at no cost to Reseller and without prejudice to Supplier's obligations under Clause 12.1:

12.5.1 procure for the Reseller Group the right to continue to use the infringing Product or other material, or continue to take the benefit of any Products, that are affected by the Claim in accordance with the terms of the Contract; or

12.5.2 modify or replace the infringing Product or other material or re-perform the applicable Products so that it becomes non-infringing (provided that the modified or replaced Product or other material, or the re-performed Products, provide the same performance and functionality and do not adversely affect the use of the Product or other material).

12.6 If Supplier is not able to rectify the infringing situation in accordance with Clause 12.5 within reasonable time, Reseller shall be entitled to terminate the Contract for cause and with no liability to Supplier with immediate effect.

## 13. DEMONSTRATION PRODUCTS

13.1 In the event that Supplier provides Reseller with Products for marketing or demonstration ("Demonstration Products"), such Demonstration Products (i) are restricted for use only by the Reseller and shall not be transferred to any third party; and (ii) may be used only for demonstration and marketing to, and internal evaluation purposes of End Users.

13.2 Demonstration Product licenses are non-exclusive, non-transferable, and limited to the number of copies specified in an Order.

13.3 Unless otherwise agreed by the Parties in writing, Demonstration Products receive the following limited support services from Supplier: (i) updates and patches of the Demonstration Products when such updates and patches are

made generally available by Supplier; and (ii) help-desk assistance.

## 14. USE OF DEVICE DATA

Reseller Group and its subcontractors have the right to collect, store, aggregate, analyze or otherwise use Device Data for (i) providing and maintaining the Services and/or the Product, the Combined Product to End Customers; (ii) preventing, detecting and repairing problems related to the security and/or the operation of the a Product or a Combined Product and/or the Services; (iii) improving and developing existing services, technologies, products and/or software and developing new services, technologies, products and/ or software; and (iv) offering other products or services. All improvements and developments (including all resulting Intellectual Property Rights) made by Reseller Group or subcontractors are exclusively owned by the relevant member of the Reseller Group. In addition, Reseller has the right to use Device Data for benchmarking purposes if and to the extent it is anonymized or non-confidential.

## 15. CONFIDENTIALITY AND DATA SECURITY

15.1 Each Party agrees that it shall not at any time disclose to any person technical or commercial knowhow, specifications, inventions, processes or initiatives or any other information or data which are of a confidential nature and have been disclosed to such Party (the "Recipient") by the other Party (the "Discloser") or its agent and any other confidential information concerning Discloser's business or its products which the Recipient may obtain, except as permitted by Clause 16.3. The Parties agree that, where Reseller is the Discloser, all Reseller Materials and all information concerning any member of the Reseller Group's business or products shall be confidential information.

15.2 Confidential information does not include any particular information that the Recipient can reasonably demonstrate:

15.2.1 was in the possession of, or was rightfully known by, the Recipient without an obligation to maintain its confidentiality prior to receipt from the Discloser;

15.2.2 was or has become generally available to the public other than as a result of disclosure by the Recipient or its agents; or

15.2.3 was independently developed by the Recipient without use of or reference to any confidential information of the Discloser.

15.3 Recipient may disclose the Discloser's confidential information:

15.3.1 to such of its employees, agents or sub-contractors as need to know the same for the purpose of exercising its rights or carrying out its obligations in connection with a Contract. The Recipient shall ensure that such employees, agents or sub-contractors comply with this Clause 15; and

15.3.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that the Recipient takes best efforts to limit such disclosure and to obtain confidential treatment or a protective order, notifies the Discloser (where legally permissible to do so) reasonably in advance to enable it to participate in such effort.

15.4 Recipient shall not use the Discloser's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

15.5 Recipient agrees to apply reasonable safeguards against the unauthorized disclosure of Discloser's confidential information in accordance with good industry practice, or in the same manner and to the same degree that it protects its own confidential and proprietary information – whichever standard is higher.

15.6 Upon Reseller's reasonable request, Supplier shall procure that Supplier and/or individuals of Supplier's Team execute and provide to Reseller any additional documents or agreements related to the handling of confidential information.

15.7 Supplier shall:

15.7.1 take all necessary steps to ensure that Reseller data or information which comes into its possession or control in the course of providing the Products is protected and in particular Supplier shall not: (i) use Reseller's data or information for any other purposes than for providing the Products; or (ii) reproduce the data or information in whole or in part in any form except as may be required by the underlying contractual document, or (iii) disclose Reseller data or information to any third party or persons not authorized by Reseller to receive it, except with the prior written consent of Reseller;

15.7.2 comply with, and ensure that Supplier's Team comply with, any security procedure, policy and/or standard provided to Supplier by any member of the Reseller Group from time to time or as otherwise set out in the Order; and

15.7.3 notify Reseller promptly of any security incidents or threats relating to the Products and/or Reseller Material, data or information.

## 16. DATA PROTECTION

16.1 If Reseller discloses Personal Data to Supplier, Supplier shall comply with all applicable data protection laws and regulations.

16.2 Supplier shall apply appropriate physical, technical and organizational measures to ensure a level of security of Personal Data appropriate to the respective risk and the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services.

16.3 Supplier agrees that it will not withhold or delay its consent to any changes to this Clause 16 which in Reseller's or its Affiliates reasonable opinion are required to be made in order to comply with applicable data protection laws and regulations and/or with guidelines and advice from any competent supervisory authority and agrees to implement any such changes at no additional cost to Reseller.

16.4 Supplier acknowledges that the processing of Personal Data in accordance with the Contract may require the conclusion of additional data processing or data protection agreements with Reseller or its Affiliates. To the extent such additional agreements are not initially concluded as part of the Contract, Supplier its relevant Affiliates or subcontractors shall, upon Reseller's request promptly enter into any such agreement(s) as designated by Reseller and as required by mandatory law or a competent data protection or other competent authority.

## 17. INSURANCE

17.1 Supplier shall maintain in force, with a reputable and financially sound insurance company, a public general liability insurance policy in the amount of not less than five million US dollar (5,000,000 USD) per event and ten million US dollar (10,000,000 USD) per year, a professional indemnity insurance policy in the amount of not less than five million US dollar (5,000,000 USD) per occurrence and not less than ten million US dollar (10,000,000 USD) per year, covering the liability arising out of a Contract and the related Products including Intellectual Property Rights infringement, cyber liability (including as a minimum computer virus, confidentiality and data protection) and any other insurance policies required by applicable law. Such insurance policies shall remain in effect throughout the term of the Contract and for a period of two (2) years after termination or expiration. Reseller shall be included as an additional insured as their interest may appear under the liability insurance required above and policies shall be endorsed to waive insurer's rights of subrogation against the Reseller.

17.2 Supplier shall, on Reseller's request, produce both the insurance certificates giving details of cover and the receipt for the current year's premium.

17.3 Nothing contained in this Clause 17 shall relieve Supplier from its liability. The insured amount cannot be considered nor construed as limitation of liability.

## 18. LIABILITY

18.1 Subject to Clause 18.2, the total liability of each Party in respect of any losses incurred by the other Party or any of its Affiliates under or in relation to the Contract, including liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence) and breach of statutory duty, will not exceed the greater of:

18.1.1 five hundred thousand US dollar (500,000 USD); or

18.1.2 (i) a sum equal to the Charges agreed under the respective Contract, or (ii) if recurring Charges apply, twenty-four (24) times the average monthly Charges paid or payable by Reseller under the respective Contract prior to the event giving rise to the liability.

18.2 Nothing in the Contract shall operate so as to exclude or limit the liability of either Party to the other for:

18.2.1 death or personal injury arising out of negligence;

18.2.2 breach of Clauses 15 (Confidentiality) or 16 (Data Protection);

18.2.3 gross negligence, willful misconduct or fraudulent misrepresentation;

18.2.4 an indemnification obligation pursuant to Clauses 12 (IPR Indemnity) or 20 (Compliance with Laws, Integrity); or

for any other liability which cannot be excluded or limited by law.

18.3 Subject to Clause 18.2, under no circumstances shall either Party be liable to the other for any of the following types of loss or damages arising under or in relation to the Contract (whether arising for breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise):

18.3.1 any indirect or consequential loss or damage; or

18.3.2 any loss of profits, business, contracts, goodwill, or revenue, even if that Party was aware of the possibility that such loss or damage might be incurred by the other.

18.4 Nothing in the Contract shall operate as to exclude any conditions implied by applicable law.

## 19. TERMINATION

19.1 Except as otherwise provided in the Order, Reseller may terminate the Contract:

19.1.1 for convenience in whole or in part by giving Supplier thirty (30) days written notice;

19.1.2 if an End User terminates its End User Contract with Reseller by giving Supplier (10) days written notice;

- in such events, Reseller shall pay to Supplier the value of the delivered but unpaid Products. No further compensation will be due to Supplier.

19.2 Either Party may terminate the Contract for cause and with no liability to the other Party with immediate effect by giving written notice to the other Party if:

19.2.1 the other Party commits a material breach of the respective Contract which (in the case of a breach capable of remedy) it does not remedy within thirty (30) calendar days of receiving written notice of the breach; or

19.2.2 (i) an interim order is applied for or made, or a voluntary arrangement approved, or a petition for a bankruptcy order is presented or a bankruptcy order is made against the other Party; or (ii) any circumstances arise which entitle the court or a creditor to appoint a receiver or administrator or to make a winding-up order; or (iii) other similar or analogous action is taken against or by the other Party by reason of its insolvency or in consequence of debt.

19.3 Reseller may terminate the Contract with immediate effect and with no liability to Supplier if there is a change of Control of Supplier.

19.4 The termination of the Contract, however arising, will be without prejudice to the rights and duties of either Party accrued prior to termination.

19.5 Upon termination of the Contract Supplier shall immediately safely return to Reseller all property and information of Reseller then in Supplier's possession or under its control.

19.6 Following termination of the Contract the Clauses which expressly or by implication survive termination shall continue in full force and effect.

## 20. COMPLIANCE WITH LAWS, INTEGRITY

20.1 Supplier shall provide the Products, in compliance with all relevant laws, regulations and applicable codes of practice.

20.2 Supplier represents, warrants and undertakes that it is and will remain fully compliant with all applicable trade and customs laws, regulations, instructions, and policies, including satisfying all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the subject matter of the Contract. If any of the Products are or will be subject to export restrictions, it is Supplier's responsibility to promptly inform Reseller in writing of the particulars of such restrictions. Reseller will comply with the restrictions to the extent it has been informed by Supplier.

20.3 Each Party warrants that it will not, directly or indirectly, and that each has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of each Party, or any other party in a manner contrary to applicable laws (including the U. S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and, where applicable, legislation enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials), and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing in a Contract will render either Party liable to reimburse the other for any such consideration given or promised.

20.4 Supplier herewith acknowledges and confirms that Supplier has received a copy of Reseller's Code of Conduct and Reseller's Supplier Code of Conduct or has been provided information on how to access both Reseller Codes of Conduct online under [www.hitachienergy.com/integrity](http://www.hitachienergy.com/integrity). Supplier agrees to perform its contractual obligations with substantially similar standards of ethical behaviour.

20.5 Reseller has established reporting channels where Supplier and its employees may report suspected violations of applicable laws, policies or standards of conduct: Web portal: [www.hitachienergy.com/integrity](http://www.hitachienergy.com/integrity) - **Reporting Channels**; contact details specified on this Web portal, and Supplier shall ensure that such reporting channels are used to report any suspected violations.

20.6 Any violation of an obligation contained in this Clause 20 is a material breach of the Contract and entitles the nonbreaching Party to terminate the Contract with immediate effect and without prejudice to any further rights or remedies available thereunder or at law. Notwithstanding anything to the contrary in the Contract, Supplier shall, without any limitations, indemnify and hold harmless Reseller (and any affected Reseller Affiliate) for all liabilities, damages, cost or expenses incurred as a result of any such violation and termination of the Contract, or arising from export restrictions concealed by Supplier.

## 21. MISCELLANEOUS

21.1 Assignment and other dealings. Supplier shall not assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any of its rights and obligations the Contract. Reseller may at any time assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

21.2 Subcontracting. Supplier shall be permitted to sub-contract the performance of its obligations under the Contract, provided always that it obtains Reseller prior written consent. Supplier will be responsible for any acts and omissions of its sub-contractors as if they were Supplier's acts or omissions.

21.3 Variation. No variation of the Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives) or unless it is executed in the same form as the Contract.

21.4 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21.5 Rights and remedies. The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise available to the Parties, except as expressly provided otherwise herein.

21.6 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of the Contract.

21.7 Entire agreement. The Contract constitutes the entire agreement between the Parties and replaces any prior agreement between them in relation to its subject matter.

21.8 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

21.9 Third party rights.

21.9.1 Supplier agrees that the Products may be used, received and resold by each member of the Reseller Group subject to the terms of the Contract. The Parties specifically acknowledge and agree that it is their intention that each member of the Reseller Group shall be entitled: (i) to the benefits of the Contract as if it were party to it; and (ii) to use, receive and sell any of the Products provided by Supplier hereunder, including as Combined Products; provided that any obligations set out in the Contract are obligations of Reseller, not of any other member of the Reseller Group. Reseller and Supplier do not require the consent of any third party to rescind the Contract or to vary it in any way.

21.9.2 The Parties acknowledge and agree that: (i) except as specifically provided in the Contract, no one other than a Party to the Contract, their successors and permitted assignees, shall have any right to enforce any of its terms, including but not limited to, and End User of the Reseller; (ii) any liabilities, losses, damages, costs and expenses incurred by any other members of the Reseller Group under or in connection with the Contract shall be deemed to have been suffered by Reseller (and shall be recoverable by Reseller from Supplier in accordance with the terms of the Contract as if they had been suffered by Reseller); and (iii) Clause 21.9.2 (i) shall not apply where it would prevent the applicable member of the Reseller Group from recovering any relevant liabilities, losses, damages, costs or expenses, in which case the applicable member of the Reseller Group may enforce the benefits conferred on it under the Contract.

21.9.3 Should a member of the Reseller Group cease to have such status due to a divestiture, such entity shall be deemed a member of the Reseller Group for purposes of using and receiving the Products for a transition period of six (6) months or such other period agreed by the Parties.

21.10 Notices. Any notice must be given duly signed and delivered by hand, registered mail, courier, or (provided that the Parties have agreed that notices may be sent by email) by e-mail

to the address of the relevant Party as stated in the Contract or to such other address as such Party may have notified in writing. E-mails require written confirmation of the receiving Party. Supplier's reply, correspondence, information or documentation related to the Contract must be provided in the language used in the Contract. This Clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21.11 Further Assurance. Supplier will at its own cost execute all such documents and do all such acts and things; and procure that all relevant third parties execute all such documents and do all such acts and things, as the Reseller may reasonably request from time to time in order to give full effect to the provisions of the Contract (including the rights given under it).

21.12 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the country (and/or the state, as applicable) where Reseller is registered, however under exclusion of its conflict of law rules and the United Nations Convention on International Sale of Goods.

21.13 Jurisdiction. If Reseller and Supplier are registered in the same country, any dispute arising in connection with the Contract which cannot be settled amicably shall be submitted for resolution to the jurisdiction of the competent courts at Reseller's place of registration. If Reseller and Supplier are registered in different countries, any dispute arising in connection with the Contract which cannot be settled amicably shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance therewith. Place of arbitration shall be Reseller's place of registration. The language of the proceedings and of the award shall be English.