

## End User License Agreement

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- 1. Definitions:** 'Hitachi Solutions' refers to Hitachi Solutions, Inc., its subsidiaries, and affiliated organizations, 'You' or 'Your' is the organization that will be using the software. 'Party' refers to each Hitachi Solutions and You individually and 'Parties' refers to Hitachi Solutions and You collectively.
- 2. Software License:** If You purchase the Software License, Hitachi Solutions will provide You with executable code for all software provided to You, and will grant to You a fully paid-up, royalty-free, non-exclusive, non-redistributable worldwide right and license to use such software on one production environment and multiple non-production environments. Hitachi Solutions will retain all ownership of the source code of the software provided to You, along with all right, title and interest to all intellectual property rights thereto. You shall have ownership of the final form the source code for any customizations done for You, provided, however, that Hitachi Solutions shall have the right to independently develop similar features and functions ("Similar Enhancements") to its own software so long as such Similar Enhancements do not incorporate Your confidential information, and You hereby waive any and all claim to ownership of such Similar Enhancements regardless of similarity to Your customizations. The license fee is not refundable at any time after the initial purchase. All software license and first year software assurance payments must be made up front and Software will not be shipped until payment is received in full for the software license and the first year software assurance.
- 3. Source Code License:** If You purchase the Source Code License, You will be provided with a copy of the product source code. You may use this for internal development purposes only and may not resell or redistribute the source code. You may not use the source code to develop applications for any third-parties. The source code for Hitachi Solutions eCommerce, Hitachi Solutions Customer Portal, and Hitachi Solutions Order Entry may use components from Code on Time and the source code license is subject to the license agreement from Code On Time LLC ('Code on Time') included as an Appendix to this agreement.
- 4. Software Assurance:** The Software Assurance plan is an annual plan that provides You with access to all standard software updates and standard enhancements on the software that are made available for general release to Hitachi Solutions customers. Enrollment in the Software Assurance Plan for the initial twelve (12) month period is mandatory. After the first year Your renewal date is one calendar year from the date You purchased the software. The date You purchased the software is the date that you send Hitachi Solutions the signed contract either via fax, email or mail. Your enrollment in the Software Assurance is automatically renewed on your renewal date unless You notify Hitachi Solutions in writing of your cancellation no less than sixty (60) days prior to Your renewal date.
- 5. Confidentiality:** With respect to any information supplied in connection with Hitachi Solutions software and designated by Hitachi Solutions as confidential, You agree to protect the confidential information in a reasonable and appropriate manner, and use confidential information only to perform Your obligations under this engagement and for no other purpose. This will not apply to information which is: (i) publicly known; (ii) already known to the recipient without any restrictions on use and disclosure; (iii) disclosed by a third party without restriction; (iv) independently developed; or (v) disclosed pursuant to legal requirement or order, provided that You give Hitachi Solutions prompt written notice of such requirement and reasonably assist in obtaining an appropriate order of protection. Hitachi Solutions may also mention Your name and provide a general description of the engagement in our client lists or marketing presentations to others. In addition to the foregoing, You acknowledge that the software contains valuable proprietary information of Hitachi Solutions, including trade secrets of Hitachi Solutions, and You therefore agree that You will not: (a) decompile, disassemble or otherwise seek to reduce the object code of the software to its source code form or otherwise derive the source code or logic therein, except to the extent and for the express purpose required by applicable law, and only if Hitachi Solutions has not or is not willing or able to provide the relevant information to You, or unless your license provides access to the

source code; (b) alter, modify the Software or create derivative works based on the Software; (c) use the software for any third party on a service basis; (e) sell, transfer, lease, license or sublicense the software; (e) allow access to the software by any person other than as expressly permitted in this Agreement; (f) remove or evade any technical protection; (g) combine or distribute the software in any manner which requires disclosure or distribution of the combined software in source code form, or distribution at no charge (i.e., open source software); and (h) publish or provide any results of tests, including without limitation benchmark tests, run on the Software to any third party without Hitachi Solutions prior written consent.

6. **Security:** Like any web application software, Hitachi Solutions software is susceptible to hacker attacks and security breaches. It is Your responsibility to ensure that Your servers are in a secure environment with appropriate firewalls, database encryption, virus protection, security patches including the most recent windows update. Hitachi Solutions is not liable for any loss of data or any other damages from security breaches, denial of service or other hacker attacks. For the server hosting environment, Hitachi Solutions recommends using a minimum of two servers with one being a web server and the other being a database server to maintain appropriate security for protection against hackers. The database server should always be behind the firewall.
7. **LIMITED WARRANTY:** Hitachi Solutions warrants that our software will perform as described in any product documentation provided by Hitachi Solutions and based on any representations or assumptions provided by You to Hitachi Solutions. Hitachi Solutions' sole obligation will be to correct any non-conformance with this warranty, provided that You give Hitachi Solutions written notice within ninety (90) days after the software license is delivered. Hitachi Solutions does not warrant and is not responsible for any third-party products or services (including any other applicable computer hardware and software warranties). Your sole and exclusive rights and remedies with respect to any third-party products or services are against the third-party vendor and not against Hitachi Solutions. Hitachi Solutions' software is complex computer software and Your performance may vary based on Your hardware platform, software interactions, customizations, configurations, and a variety of other factors. Hitachi Solutions' software is not fault tolerant, free from errors, conflicts or interruptions. THIS WARRANTY IS OUR ONLY WARRANTY CONCERNING THE SERVICES, SOFTWARE, AND ANY DELIVERABLE, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON INFRINGEMENT, CONDITION OF QUALITY, DESCRIPTION, OPERATION, ADEQUACY, TITLE, INTERFERENCE WITH USE OR ENJOYMENT OF USE, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, OR THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES. IF ANY JURISDICTION HAVING APPLICABILITY TO THIS AGREEMENT DOES NOT PERMIT ANY SUCH EXCLUSION AND/OR LIMITATION: (A) EACH WARRANTY WHICH CANNOT BE EXCLUDED SHALL BE LIMITED IN TIME TO THE NINETY (90) DAY PERIOD SET OUT ABOVE; AND HITACHI SOLUTIONS'S TOTAL LIABILITY TO YOU FOR BREACH OF ANY AND/OR ALL SUCH WARRANTIES SHALL BE LIMITED TO THE AMOUNT STATED IN CLAUSE 5 ABOVE.
8. **Limitation of Liability:** (A) HITACHI SOLUTIONS'S TOTAL LIABILITY RELATING TO THE SOLUTION WILL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE FEES HITACHI SOLUTIONS RECEIVED FROM YOU FOR THE PORTION OF THE SOFTWARE OR ENGAGEMENT GIVING RISE TO LIABILITY IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE INCIDENT, AND WILL NOT INCLUDE ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES OR LOSS (NOR ANY LOST PROFITS, SAVINGS, OR BUSINESS OPPORTUNITY); (B) YOU WILL INDEMNIFY HITACHI SOLUTIONS, HITACHI SOLUTIONS'S OWNERS, EMPLOYEES, CONTRACTORS, AND AGENTS AGAINST ALL COSTS, FEES, EXPENSES, DAMAGES AND LIABILITIES (INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS) ASSOCIATED WITH ANY THIRD-PARTY CLAIM, RELATING TO OR ARISING AS A RESULT OF THE SERVICES, YOUR USE OF THE SOFTWARE OR OUR ENGAGEMENT; (C) HITACHI SOLUTIONS WILL NOT BE LIABLE FOR ANY DELAYS OR FAILURES IN PERFORMANCE DUE TO CIRCUMSTANCES BEYOND HITACHI SOLUTIONS'S REASONABLE CONTROL; (D) ANY ACTION AGAINST HITACHI SOLUTIONS IN CONNECTION WITH THIS ENGAGEMENT MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION ARISES. IN ALL EVENTS, THE PARTIES WAIVE TRIAL BY JURY. IN ANY PROCEEDING TO ENFORCE THE TERMS HEREOF, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVERY OF REASONABLE ATTORNEY'S FEES, IN ADDITION TO ALL OTHER COSTS OF SUIT.
9. **Audit:** If your use of the software is subject to user limitations, Hitachi Solutions shall have the right to request, but not more frequently than annually, a disclosure verifying that the software is being used in accordance with such user limitations. Hitachi Solutions shall, at any time during the period of this Agreement, have the right to audit the utilization of software upon thirty (30) days written notice in order

to confirm the accuracy of the above disclosure; provided, that no more than one such audit may be conducted in any one (1) year period. Any such audit shall be performed during normal business hours at Hitachi Solutions' expense, provided that You shall bear the cost of such audit if the audit reveals utilization inconsistent with the above disclosure by an underpayment of more than five percent (5%). The party conducting the audit shall sign a confidentiality agreement reasonably acceptable to You.

10. **Severability:** If any provision of this Agreement shall be held invalid, illegal or unenforceable for any reason, such provision shall be severable and the remainder of this Agreement shall continue in full force and effect. If a court finds that by limiting any such invalid, illegal or unenforceable provision, such provision would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
11. **Server Environment and Data Migration:** Hitachi Solutions requires that customer maintains a separate test environment for testing and verification prior to porting over a deployment to a production environment. Hitachi Solutions recommends that all deployment and data migration is conducted on a test server environment first. Hitachi Solutions will not be liable for any changes that are made directly on a production environment without first being tested on a test environment.
12. **CREDIT CARD REGULATION COMPLIANCE:** YOU ACKNOWLEDGE THAT CREDIT CARD PROVIDERS, BANKS, CREDIT CARD PROCESSING COMPANIES, AND GOVERNMENTAL ENTITIES IMPLEMENT AND REQUIRE SPECIFIC PROCEDURES, POLICIES, AND REGULATIONS IN CONJUNCTION WITH CREDIT AND DEBIT CARDS AND SERVICES. YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL POLICIES, RULES, REGULATIONS, AND PROCEDURES REQUIRED BY THE CREDIT CARD COMPANIES, BANKS, AND/OR PROCESSORS YOU ELECT TO ACCEPT OR UTILIZE, AS WELL AS COMPLIANCE WITH ALL APPLICABLE GOVERNMENTAL RULES AND REGULATIONS. MAINTENANCE AND SUPPORT AGREEMENTS DO NOT INCLUDE COMPLIANCE WITH CREDIT AND DEBIT CARD RULES, REGULATIONS AND LAWS. YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE THEREWITH.
13. **Counterparts:** This Agreement may be executed in counterparts, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Facsimile signatures shall be treated as originals.
14. **Automated Verification:** You acknowledge that the Hitachi Solutions software may contain a software key to prevent unauthorized installation and may contain devices to monitor compliance with Your license obligations under this Agreement.
15. **Export and U.S. Government Regulations:** You acknowledge that software is subject to the export control laws of the United States ("Export Laws") and agree to comply fully with such Export Laws. Under the Export Laws, software may not be sold, leased, re-exported or otherwise transferred to restricted end-users or restricted countries or for use in connection with weapons of mass destruction. You understand that the requirements of the Export Laws may vary depending on the software delivered and may change over time, and that to determine the controls applicable to a particular transaction, it is necessary to refer to the U.S. Export Administration Regulations and the Office of Foreign Assets Control Regulations. The software is deemed to be "commercial computer software" and/or "commercial computer software documentation," pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display, or disclosure by the U.S. Government shall be governed solely by, and prohibited, except as expressly permitted under, the terms of this Agreement. Software is unpublished proprietary information and is commercial software developed at private expense and subject to the restrictions set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 52.227-7013 or subparagraph (c)(2) of the Commercial Computer Software and Restricted Rights clause at FAR 52.227-19, whichever is applicable. You acknowledge that it is responsible for obtaining any licenses to export, re-export or import the software as may be required. You will defend, indemnify, and hold harmless from and against all fines, penalties, liabilities, damages, costs and expenses incurred by Hitachi Solutions as a result of any violation of export (control) laws or regulations by Licensee or any of its agents or employees.
16. **Compliance with Anti-Corruption Laws.** Neither party to this Agreement nor any of their Affiliates has taken and neither will take any actions in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any government official (including any officer or employee of a government or government-controlled entity or instrumentality, or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or official thereof, or candidate for political office, all of the foregoing being referred to as "Government Officials") or to any other person while knowing that all or some portion of the money or value was or will be offered, given or promised to a Government Official for the purposes of obtaining or retaining business or securing any improper advantage or influencing official action. No part of the payments received by Licensee from Hitachi Solutions America Ltd. will be used for any purpose which would cause a violation of law, including, without limitation, the anti-bribery laws of any

country or jurisdiction in which Hitachi Solutions America, Ltd. operates.

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18. **General:** (a) No term of this Agreement will be deemed waived, and no breach of this Agreement excused, unless the waiver or consent is in writing signed by the party granting such waiver or consent; (b) The terms of this Agreement which by their nature are to survive this Agreement will survive its expiration or termination; (c) All of our respective rights and duties and all controversies and claims in connection with this engagement will be determined in accordance with the laws of the State of California, and jurisdiction over any dispute will be vested exclusively in the state or Federal courts located in Los Angeles County, California. Both parties submit and consent to such jurisdiction and venue; (d) Both parties acknowledge that we may correspond or convey documentation via Internet e-mail and that neither party has control over the performance, reliability, availability, or security of Internet e-mail. Therefore, neither party will be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any Internet e-mail due to any reason beyond our reasonable control; (e) Waiver of the breach of any provision of this Agreement will not operate or be construed as a waiver of any other or subsequent breach. No failure or delay in exercising any right, remedy or power under this Agreement will operate as a waiver of any other right, remedy or power.
19. **Headings:** The headings herein are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
20. **Entire Agreement:** This Agreement and any and all related Schedules of Work executed by the parties and fully incorporated by reference herein, contains the entire understanding of the Parties pertaining to the use of Hitachi Solutions software and replaces and supersedes all previous contracts written or oral, between the Parties pertaining to the matters contained herein. Hitachi Solutions reserves the right to update, change, or otherwise modify this Agreement from time to time in its sole discretion. Hitachi Solutions will provide notice of any such changes by posting any updated, new or additional terms to the Agreement on its website at [Hitachi Solutions.com/eula.html](http://HitachiSolutions.com/eula.html) and updating the "Last Updated" date above. You are encouraged to check the site frequently for any updates to ensure You understand the terms of the Agreement. If You do not agree to the updated or additional terms, then You must immediately stop using the Software and contact Hitachi Solutions in writing."

## Appendix: Supplemental Source Code License for Code on Time License Agreement

**Applicable only to customers licensing Hitachi Solutions eCommerce, Hitachi Solutions Customer Portal or Hitachi Solutions Order Entry. This license governs use of the accompanying software. If you use the software, you accept this license. If you do not accept the license, do not use the software.**

1. **Definition**

The term "project" means a collection of binary and text files provided by Code OnTime LLC or its partners. The term "service" means automated program code writing by the way of conversion of the project files into another set of files. The term "product" means program files produced when the service is performed. "You" means the licensee of the service.
2. **Grant of Rights**

(A) Accompanying Software Usage Grant- Subject to the terms of this license, including the license conditions and limitations in section 3, Code OnTime LLC grants You a non-exclusive license to run the accompanying software, to initiate the service, to customize projects. (B) Service Product Grant- Subject to the terms of this license, including the license conditions and limitations in section 3, Code OnTime LLC grants You a non-exclusive, worldwide, royalty-free license to reproduce the service product, prepare derivative works of the service product and distribute the service product or any derivative works that You create.
3. **Conditions**

(A) Third Party Software- Third party software may be included in the service product. (B) No Trademark License- This license does not grant You any rights to use the names, logos, or trademarks of third parties or Code OnTime LLC. (C) If You begin patent litigation against Code OnTime LLC over patents that You think may apply to the software or service product (including a cross-claim or counterclaim in a lawsuit), Your license to the software and service product ends automatically. (D) If You distribute copies of the service product or derivative works, You must retain all copyright, patent, trademark, and attribution notices that are present in the service product. (E) If You distribute the service product or derivative works in source code form You may do so only under this license (i.e.,

You must include a complete copy of this license with Your distribution), and if You distribute the product service or derivative works in compiled or object code form You may only do so under a license that complies with this license. (F) The accompanying software is licensed "as-is." You bear the risk of using it. Code OnTime LLC gives no express warranties, guarantees or conditions. You may have additional consumer rights under Your local laws which this license cannot change. To the extent permitted under Your local laws, Code OnTime LLC excludes the implied warranties of merchantability, fitness for a particular purpose and non-infringement. (G) The service product is licensed "as-is." You bear the risk of using it. Code OnTime LLC gives no express warranties, guarantees or conditions. You may have additional consumer rights under Your local laws which this license cannot change. To the extent permitted under Your local laws, Code OnTime LLC excludes the implied warranties of merchantability, fitness for a particular purpose and non-infringement.