



## **MASTER CONSULTING AGREEMENT**

**THIS MASTER CONSULTING AGREEMENT** (this "Agreement"), dated the [ ] day of [ ], 2024 (the "Effective Date"), is between Hitachi Solutions Europe Ltd a company incorporated in England with company number 04924233 and having its registered office at 110 Bishopsgate, 23rd Floor, London, EC2N 4AY ("Consultant"), and [ ], a company incorporated in [ ] with company number [ ] and having its registered office at [ ] ("Client"). The parties, intending to be legally bound, agree as follows:

1 Master Agreement. Each Work Order (defined below) and Change Order (defined below) shall be subject to the terms and conditions of this Agreement. This Agreement shall apply to all Work Orders and Change Orders entered into during the term of this Agreement, with respect to the Services (defined below) that are the subject of this Agreement, unless the parties expressly agree otherwise by a written modification to this Agreement, signed by an authorised representative of both parties. In the event there is a conflict between the terms of this Agreement and a Work Order or Change Order, the terms of this Agreement shall prevail unless otherwise specified in such Work Order or Change Order. No terms, provisions or conditions of any purchase order, acknowledgement, invoice or other business form that either party may use in connection with the transactions contemplated by this Agreement shall have any effect on or shall otherwise modify the rights, duties, or obligations of either party under this Agreement, regardless of any failure of a receiving party to object to such terms, provisions or conditions.

2 Services; Work Orders; Change Orders; Affiliates.

a. Procedures Related to Work Orders. Except as otherwise provided herein, the performance of any services to be performed by Consultant (the "Services") shall be set forth in written work orders executed by the parties from time to time substantially in the form of **Exhibit "A"** attached hereto and incorporated herein for all purposes (as amended, modified or supplemented by any applicable Change Orders (defined below), the "Work Orders"). Such Work Orders will be consecutively numbered.

b. Change Order Procedures. If Client desires to change, modify or supplement the services to be performed under a particular Work Order or if the Consultant believes a Work Order needs to be changed, modified or supplemented, the requesting party shall request such changes, modifications or supplemental actions pursuant to a change request substantially in the form of **Exhibit "B"** attached hereto and incorporated herein for all purposes (the "Change Request"). Consultant and Client shall mutually agree to the changes or modifications to the services as set forth in the applicable Change Request or the description of the supplemental services described therein. In the event the parties agree to the new terms and conditions of the Change Request, the parties' authorised representatives shall each execute the Change Request reflecting such agreement (the "Change Order"). Each Change Order shall be labelled consecutively using alphabetical letters corresponding to the modified, amended or supplemented Work Order.

c. Instructions to Proceed. Where Client gives instructions (including by email) to Consultant to proceed with specified Services prior to and in the absence of an executed Work Order or Change Order, such instruction shall be deemed to confirm due authority from Client and Consultant may at its discretion provide such Services from the date of instruction. All Services provided by Consultant pursuant to such instruction shall be payable on a time and materials basis by reference to Consultant's then-current rate card should the relevant Work Order or Change Order not be executed.

d. Use by Client's Affiliates. An Affiliate of Client may purchase Services hereunder by entering into a Work Order with Consultant. All references in this Agreement to "Client" will mean a Client Affiliate that enters into such Work Order. The Affiliate identified therein will be bound by the terms and conditions of this Agreement for purposes of the applicable Work Order only, and Consultant shall be responsible under each Work Order only to Client or the applicable Client Affiliate, whichever has executed the Work Order with Consultant. As used herein, "Affiliate" shall mean an entity that directly or indirectly controls, is controlled by, or is under common control with, a party hereto.



"Control" shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of an entity whether by contract, ownership of shares, membership on the board of directors, agreement or otherwise.

e. Project Charter. A service and project governance document ("Project Charter") will record the parties' roles and responsibilities in relation to the Services, the route for escalation of issues and related matters, a RACI-VS Matrix for in-scope Deliverables (noting who is Responsible, Accountable, Consulted, Informed, a Verifier, and a Signatory to each) and a detailed communications plan setting out the frequency and timing of status reports, team meetings and steering group meetings. A Work Order may provide for the preparation and agreement of a bespoke service-specific Project Charter. Unless and until a bespoke Project Charter has been prepared by Consultant and agreed by Client, Consultant's Standard Project Charter as set out at [PPPD-050 Standard Project Charter](#) shall apply.

### 3 Invoices and Payments.

a. Consultant shall render invoices monthly for Services performed for Client, and Client shall pay such invoices within thirty (30) days of receipt, unless otherwise specified in the applicable Work Order and/or Change Order.

b. The invoices submitted to Client shall show:

- i. a description of Services performed during the period;
- ii. detailed charges for Consultant; and
- iii. Reimbursable Expenses (as defined below) itemised separately.

In addition, any fees quoted in a Work Order or Change Order shall not include taxes. Consultant's invoices shall reflect, and Client shall pay, all applicable sales, use, excise, value added and other taxes associated with Client's receipt of the Services and the documentation and other output created by Consultant as specified in the applicable Work Order ("Deliverables") hereunder, excluding taxes on Consultant's income.

c. Client shall reimburse Consultant for reasonable out-of-pocket expenses, including without limitation travel, lodging, and meals ("Reimbursable Expenses") incurred in the performance of Services, as set forth in the applicable Work Order and in accordance with Consultant's expenses policy applicable to the jurisdiction in which the Services are to be performed ("Expenses Policy"). Notwithstanding the terms of the applicable Expenses Policy, where staff providing Services are employed or engaged by Consultant (or its Affiliates) in a jurisdiction in which expenses are reimbursed on a per-diem basis, Client shall reimburse the relevant expenses to Consultant on a per-diem basis.

d. Without limiting its other rights or remedies, Consultant may suspend performance of the Services (in whole or in part) on written notice to Client if Client fails to pay any amount due under this Agreement by the due date for payment and having been notified in writing of such overdue payment fails to make payment within thirty (30) days of the date of notification, until payment has been made in full.

e. If Client disputes any invoice, Client must pay the undisputed portion on or before the due date for payment and promptly (and in any event within thirty (30) days of receipt of the invoice) notify Consultant in writing of the nature of the dispute as to the remainder, and the parties will then use commercially reasonable efforts to resolve the dispute expeditiously, with escalation where required in accordance with Clause 3f. In the event the dispute is not resolved within thirty (30) days after receipt by Consultant of the notice of such dispute, Consultant may on written notice to Client suspend performance of the Services (in whole or in part), without limitation or waiver of any other right or remedy available under this Agreement or at law. Where Client disputes an amount pursuant to an

invoice and complies with its obligations under this Clause 3e then Consultant's suspension rights pursuant to Clause 3d shall not apply in respect of such disputed amount.

f. Within the thirty (30) day dispute resolution period referred to in Clause 3e the parties shall use reasonable endeavours to facilitate the review and discussion of the disputed amount, initially between the parties' respective project and/or commercial managers and if not resolved after ten (10) days, between the parties' respective senior management representatives.

g. On 1st April of each year, Consultant shall increase the fees contained in its rate card in accordance with the percentage increase in RPI (All Items) over the preceding twelve months. The rates set forth in the Work Order(s) shall be automatically adjusted accordingly on an upwards only basis.

4 Independent Contractor. The parties acknowledge and agree that Consultant and Client are, and at all times during this Agreement shall remain, independent contractors in relation to each other, and that neither party nor its employees or other representatives are authorised to make any representations or any commitment on the other party's behalf unless previously authorised by such party in writing. Each party's obligations to the other hereunder are exclusively contractual in nature. Neither this Agreement nor the performance of Services shall, or be deemed to, create a partnership, joint venture, agency, fiduciary or employment relationship or any other legal relationship between the parties. Consultant's personnel shall not be deemed employees or agents of Client, and Consultant has and hereby retains the right to exercise full control of and supervision over the performance, employment, direction, compensation and discharge of any and all of Consultant's employees performing Services hereunder. Consultant shall be responsible for all employment withholding or other tax liability of any kind or nature arising in respect of Consultant's employees.

#### 5 Relevant Transfer.

a. The parties do not believe that the arrangements anticipated by this Agreement, any associated arrangements, and/or the termination of this Agreement or any Services hereunder will constitute a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the Transfer Regulations") ("Relevant Transfer"). However, if it is asserted that there is a Relevant Transfer, the provisions of this Clause 5 below and Clause 8 (Indemnification) shall apply.

b. If it is found or alleged that the employment of any person has transferred either to the Client or to the Consultant (each the "Transferee") pursuant to a Relevant Transfer, the relevant Transferee may dismiss that person ("Transfer Dismissal"), provided that the Transfer Dismissal is effected as soon as reasonably practicable after the relevant Transferee becomes aware of that finding or allegation.

c. The parties believe that the arrangements anticipated by this Agreement, any associated arrangements and/or the termination of the Agreement or any Services hereunder will not constitute a Relevant Transfer and as such neither party has an obligation to notify the other of any employment liability information within the meaning of Regulation 11 of the Transfer Regulations. However, in the event that there is a Relevant Transfer, the parties agree that the provisions of this Agreement solely govern their rights in respect of the provision of information relating to the employees and associated liabilities which may transfer pursuant to the Transfer Regulations and that neither party shall be entitled to bring a claim against the other under Regulation 12 of the Transfer Regulations.

#### 6 Termination.

a. Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall continue until terminated by either Party as provided in this Clause 6. Termination of this Agreement by either party shall not terminate any Work Orders outstanding at such time, and those Work Orders shall continue until the relevant work has been completed, or until the Work Orders have

been terminated by agreement. The terms and conditions of the Agreement shall continue to apply to such Work Orders as if the Agreement had not been terminated.

b. Termination.

i. Either party may terminate this Agreement at any time immediately on written notice if (aa) the other party materially breaches any of its obligations hereunder (such material breach which shall include any breach of the payment obligations by the Client) or under a Work Order or Change Order and such breach has not been cured within thirty (30) days of written notice specifying the nature of the breach; (bb) either party attempts to assign this Agreement or any obligation hereunder without the other party's consent, except as otherwise allowed hereunder; or (cc) the other party ceases or threatens to cease to trade (either in whole, or as to any part or division involved in the performance of this Agreement), or becomes or is deemed insolvent, has a receiver, administrative receiver, administrator or manager appointed over the whole or any part of its assets or business, makes any composition or arrangement with its creditors or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or takes or suffers any similar or analogous procedure, action or event in consequence of debt in any jurisdiction.

c. Consequences of Termination.

i. Upon termination of this Agreement or any termination or expiry of a Work Order, Client shall promptly pay Consultant for all Services rendered and Reimbursable Expenses incurred prior to the effective date of the termination or expiration of this Agreement or the applicable Work Order(s). Client shall pay for all Services on a time and materials basis in the case where a fixed price engagement is terminated part-way through a Milestone (as defined in the relevant Work Order). Consultant may terminate this Agreement for its convenience upon thirty (30) days' prior written notice if there are no outstanding Work Orders.

ii. Subject to Clauses 11 and 12c, upon the expiration or termination of this Agreement or any Work Order, Consultant shall return to Client all materials and items furnished to Consultant by Client hereunder and, provided that Client has paid all amounts due and owing to Consultant, all materials and items developed by Consultant in the performance of the Services under this Agreement.

7 Warranties; Assistance to Consultant; Client Responsibilities; Relief Events.

a. Description of Warranties. Consultant shall perform all of the services described in this Agreement with reasonable skill and care and in accordance with Good Industry Practice, and warrants that upon delivery the Deliverables shall conform in all material respects to their specifications as set forth in the applicable Work Order. In this Agreement, "Good Industry Practice" shall mean in relation to the performance of Services, the exercise of that degree of professionalism, skill and diligence which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the same type of activity under the same or similar circumstances.

b. Remedy. In the event that the Services and/or Deliverables do not conform to the warranties set forth in Clause 7a, and provided that Client notifies Consultant in writing specifying the nature and extent of the non-conformity within thirty (30) days of the acceptance of the Services or Deliverables claimed to be non-conforming, Consultant shall re-perform the applicable Services or correct the Deliverables to cure the non-conformity as promptly as possible, but in any event within such period as agreed upon by the parties in writing. If the non-conformity has not been corrected within such period, Client may provide Consultant with a further opportunity to correct the non-conformity, in which event the procedures and time periods set forth above shall again apply, or terminate the applicable Work Order and return to Consultant the non-conforming Deliverables, if any, at which time Consultant shall return to Client the sums previously paid by Client for the non-conforming Services and Deliverables provided pursuant to such Work Order. Such termination and/or refund shall be Client's sole and exclusive remedy for any non-conformity of the Services and/or Deliverables with the warranties in Clause 7a.



c. Conditions of Warranty. The warranties set forth in Clause 7a and the remedy for non-conformities set forth in Clause 7b shall be subject to such conditions and additional terms, if any, as may be set forth in the applicable Work Order.

d. Disclaimer of Other Warranties. This Agreement sets forth the full extent of the parties' obligations and liabilities arising out of or in connection with this Agreement, any Work Order (including as amended by a Change Order), or any collateral contract, and there are no conditions, warranties, representations or terms, express or implied, that are binding on the parties except as specifically stated or contemplated in this Agreement; any condition, warranty, representation or other term which might otherwise be implied into or incorporated in this Agreement, any Work Order (including as amended by a Change Order), or any collateral contract, whether by statute, common law or otherwise, is hereby expressly excluded to the fullest extent permitted by applicable law. Without limitation, Consultant does not directly or indirectly warrant the financial soundness, services or products of any third-party vendors or service providers. Consultant acknowledges that it is responsible for the services provided by any of its subcontractors hereunder.

e. Assistance to Consultant. Client shall assist and cooperate with Consultant and Consultant's personnel as reasonably necessary by making Client's personnel with suitable qualifications and experience available to Consultant for consultation, providing reasonable access to Client sites and systems, providing other information and data required for the performance of the Services, and otherwise performing the responsibilities identified as being those of Client in the applicable Work Order or Change Order.

f. Client Responsibilities. Client acknowledges that Consultant's performance is dependent on Client's performance of the responsibilities identified as being those of Client in the applicable Work Order or Change Order and on timely decisions and approvals by Client. Consultant shall be entitled to rely upon the accuracy and completeness of all information provided by, and upon the decisions and approvals of, Client in connection with the Services. The selection of any products or services to be purchased from third parties, and the adequacy of such products or services for Client's needs, are management decisions that are made solely by Client.

g. Relief Events. Consultant shall not be treated as being in breach of this Agreement to the extent its performance of its obligations is prevented or delayed by any act or omission of Client or any third-party (excluding Consultant's subcontractors) ("Relief Event") and without prejudice to any other right or remedy it may have, Consultant shall be entitled to a reasonable extension of time to perform its obligations. The parties (acting reasonably) shall amend the then-current implementation plan (including but not limited to subsequent milestone dates) accordingly and any consequent increase in charges shall be agreed by the parties (acting reasonably) through the Change Order procedure. Consultant shall notify Client as soon as reasonably practicable after becoming aware that a Relief Event has arisen which is having, or which is reasonably likely to have, an adverse impact on the ability of Consultant to deliver the Services. Consultant shall also be entitled to recover from Client any reasonably unavoidable loss or expense it suffers or incurs as a result of the Relief Event where the Relief Event was caused by Client or its Representatives (as defined below).

## 8 Indemnification.

a. Each party (the "Indemnifying Party") shall, subject to Clause 10b, indemnify and hold harmless the other party and its Affiliates, and the directors, officers, employees and agents of each (collectively, "Indemnitees"), from and against any claim, demand, action, fine, penalty, liability, judgment, loss, damage, injury, cost and expense (including reasonable attorneys' fees) (individually and collectively, "Liabilities") resulting from (a) bodily injury to or death of any person; or (b) damage to, or loss or destruction of, any physical property, in each event to the extent such claims are caused by the negligence or intentional misconduct of the Indemnifying Party or its employees or agents in connection with the performance of this Agreement. The Indemnifying Party shall have no obligation or responsibility for any Liabilities to the extent based upon or resulting from the negligence or intentional misconduct of an Indemnitee.





b. Consultant shall defend, indemnify and hold harmless Client Indemnitees from and against Liabilities arising from a claim alleging that the Deliverables, excluding all Client products and services and third-party products or services or works of authorship or inventions, infringe a validly existing United Kingdom patent, or copyright, or other intellectual property right of a third-party. Should the Deliverable become, or be likely to become, in Consultant's opinion, the subject of infringement of such patent, copyright or other intellectual property right, Consultant shall procure for Client (i) the right to continue using the same, or (ii) replace or modify it to make it non-infringing, provided that the replacement or modification performs the same functions and matches or exceeds the performance and functionality of the original Deliverable. In the event that Consultant shall reasonably determine that neither (i) nor (ii) above is commercially practicable, Client shall return the infringing Deliverables and Consultant shall refund the fees paid by Client to Consultant for such Deliverables. Consultant shall have no obligation or liability for any claim based upon or resulting from (A) the use, operation or combination of the Deliverable with non-Consultant programs, data, equipment or documentation if such infringement would have been avoided but for such use, operation or combination; (B) modification of the Deliverables, unless such modification has been performed by Consultant or at its direction; (C) the non-compliance with Consultant's designs, specifications or user documentation; (D) information, direction, specifications or materials provided by Client or by a third-party not under Consultant's control; or (E) the use of the Deliverables after notice of the actual or alleged infringement. Subject to Clause 10a, the foregoing states the entire liability of Consultant and the exclusive remedy of Client with respect to infringement of any third-party intellectual property rights, whether under theory of indemnity, breach of contract, warranty or otherwise. For the avoidance of doubt Clauses 10b, 10c and 10d shall not apply to this Clause 8b.

c. Client shall indemnify and keep indemnified Consultant against any Liabilities which Consultant has suffered or incurred in connection with any allegation, whether raised by or on behalf of any employee, that the Transfer Regulations apply upon the commencement or implementation of this Agreement, of any associated arrangements or of any Services hereunder, including, without limitation, (i) any allegation that Consultant has failed to comply with Regulation 13 of the Transfer Regulations; and (ii) any Liabilities which Consultant has suffered or incurred in relation to a Transfer Dismissal and the employment of the person dismissed up to the date of the Transfer Dismissal.

d. Consultant shall indemnify and keep indemnified Client against any Liabilities which Client has suffered or incurred in connection with any allegation, whether raised by or on behalf of any employee, that the Transfer Regulations apply on termination of this Agreement, any associated arrangements or any Services hereunder, including, without limitation, (i) any allegation that Client has failed to comply with Regulation 13 of the Transfer Regulations; and (ii) any Liabilities which Client has suffered or incurred in relation to a Transfer Dismissal and the employment of the person dismissed up to the date of the Transfer Dismissal.

e. The Indemnitees shall give the Indemnifying Party prompt written notice of any Liabilities and reasonable assistance in defending the Liabilities, and the Indemnifying Party shall have sole authority to defend or settle such Liabilities, provided that the Indemnifying Party shall not settle any Liabilities in a manner that would admit liability of or create obligations for the Indemnitees without the Indemnitees' prior written consent.

9 Insurance. As long as any Work Order is outstanding, Consultant shall, at Consultant's sole expense, maintain the following types of insurance in commercially reasonable or, where applicable, statutorily required, amounts: commercial general liability, employers' liability and professional liability. Upon Client's request, Consultant shall provide Client with a certificate of insurance evidencing such coverage.

## 10 Limitations of Liability.

a. Nothing in this Clause 10 or otherwise in this Agreement or any Work Order agreed under this Agreement (including as amended by a Change Order) shall exclude or in any way limit either party's liability to the other party for (i) fraud, (ii) death or personal injury caused by its



negligence (including negligence as defined in section 1 Unfair Contract Terms Act 1977), (iii) breach of terms regarding title implied by section 12 Sale of Goods Act 1979 and/or section 2 Supply of Goods and Services Act 1982, or (iv) any liability to the extent the same may not be excluded or limited as a matter of law.

b. Neither party (the "first party") shall be liable to the other party for loss of or damage to physical property belonging to the other party caused by the negligence of the first party in excess of £250,000 in respect of any event or series of connected events. For the avoidance of doubt, neither damage to nor loss or corruption of data shall constitute loss of or damage to physical property.

c. Subject to Clause 10b above, Consultant's maximum aggregate liability to Client under or in connection with a Work Order agreed under this Agreement (including as amended by a Change Order), or any collateral contract, whether arising in or caused by breach of contract, tort (including negligence), breach of statutory duty or otherwise, shall in no circumstances exceed the total fees paid (excluding all sales, excise, value added, use and other taxes) under such Work Order.

d. Neither party shall be liable to the other party under or in connection with this Agreement, any Work Order agreed under this Agreement (including as amended by a Change Order), or any collateral contract, for any loss of actual or anticipated profits (otherwise than in respect of any obligation to pay the fees due to Consultant), for any loss of, or damage to data, for any loss of anticipated savings or wasted expenditure, or for any indirect or consequential loss or damage of any kind, in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or caused by breach of contract, tort (including negligence), breach of statutory duty or otherwise.

e. Each party shall use all commercially reasonable endeavours to mitigate any loss, damage or Liabilities suffered by it arising out of or in connection with this Agreement.

## 11 IPR; Deliverables; Acceptance.

### *Bespoke IPR and third-party software*

a. Consultant shall supply to the Client the Deliverables described in the Work Order and the Client shall take and own the Deliverables and all intellectual property rights therein upon payment of Consultant's invoices associated with each such Deliverable, subject to the provisions of this Clause 11. For the avoidance of doubt, the Deliverables shall exclude any third-party software, which shall be licensed directly by the Client from the relevant licensor under its separate licence terms. Notwithstanding any other term of this Agreement, Consultant shall not be liable to Client for any loss, damage or delay arising from the Client's purchase, licensing or use of any such third-party software (or the lack of availability of such third-party software or any defects therein). If Consultant carries out any bespoke development work under this Agreement in respect of software licensed separately by Consultant to Client, Consultant shall retain exclusive ownership of any intellectual property rights in such development work and Client shall be granted a licence to use the same in accordance with the terms of the separate licence agreement between the parties.

### *Hitachi background IPR*

b. To the extent the Deliverables incorporate Consultant's Pre-existing Materials or Enhancements, Consultant gives Client a non-exclusive, non-transferable (except to Client's Affiliates), perpetual (except in the case of a breach by Client or Client's sub-licensees), royalty-free, worldwide right to use such Pre-existing Materials and Enhancements (excluding any software licensed separately by Consultant to Client pursuant to its separate licence terms) for Client's internal business purposes solely in connection with such Deliverables. As between Consultant and Client, Consultant's Pre-existing Materials and Enhancements shall be deemed Consultant's Confidential Information for the purposes of Clause 12. Consultant also grants Client the right to permit a third-party to use the applicable Pre-existing Materials and Enhancements on terms no less restrictive than this Clause 11b solely in connection with providing services to Client related to Client's use of the Deliverables and



subject to such third-party's prior entry into a confidentiality agreement with Client (or, where requested, with Consultant) no less restrictive than the terms of Clause 12 of this Agreement. Client shall be and remain responsible for any breach of such confidentiality agreement (where it is entered into directly between Client and the third-party) and any breach of the terms of use, in respect of Consultant's Pre-existing Materials and Enhancements, by such third-party, as if such breach were a breach of Clause 12 of this Agreement. Nothing in this Agreement or any Work Order or Change Order will be construed to grant Client, its Affiliates, assigns or any third-party any right to separate Consultant's Pre-existing Materials or Enhancements from the Deliverable into which they are incorporated, or to market or commercially exploit such Pre-existing Materials or Enhancements on a stand-alone basis or otherwise, or to otherwise sublicense or grant any other party any rights to use, copy, market or otherwise exploit, or create derivative works from, Consultant's Pre-existing Materials or Enhancements, except as expressly provided in this Clause 11b.

c. Consultant will retain exclusive ownership of all (i) its intellectual property rights, know-how, concepts, techniques, methodologies, ideas, templates, routines, sequences, software, firmware, designs, scripts, interfaces, programming code, applets, executables, objects, files, utilities and tools that existed prior to the performance of Services under the applicable Work Order (collectively, "Consultant's Pre-existing Materials"), and all updates, modifications, improvements, enhancements and derivative works thereof (collectively, "Enhancements"); (ii) ideas, concepts, techniques and know-how discovered, created or developed by Consultant during the performance of Services that are of general application and that are not based on or derived from Client's business or Confidential Information and (iii) any intellectual property rights created by the Consultant independently of this Agreement.

#### *Work papers*

d. Consultant shall, without limitation to Clause 11c, also retain and own exclusively all Work Papers created in its performance of Services hereunder, provided that Client shall retain sole and exclusive ownership of any Client Confidential Information contained or reflected therein. As used in this Agreement, "Work Papers" shall mean those internal memoranda and working notes prepared by Consultant during the course of performing Services hereunder that serve to substantiate the Services and/or any Deliverables. The Work Papers shall be subject to the obligations set forth in Clause 12.

#### *e. Work Environments*

During the term of this Agreement, Client shall:

- (i) grant Consultant access to and use of the Work Environments and the materials and other information contained therein for all purposes related to Consultant's rights and obligations under this Agreement ("Environments Access"),
- (ii) give Consultant not less than 10 working days' prior written notice of any proposed removal of or restriction on Environments Access, and
- (iii) permit and facilitate Consultant taking or creating a full copy of the Work Environments prior to any such removal of or restriction on Environments Access. Such copy of the Work Environments shall be subject to the obligations set forth in Clause 12. In this Agreement "Work Environments" shall mean those computer or software environments where information is shared for the purpose of the Services, including data sharing sites and all collaboration, development and operations applications and software used as part of the Services.

#### *Testing*

f. If applicable, testing criteria and procedures required for acceptance of the Services or Deliverables ("Acceptance") will be jointly agreed to by Consultant and Client and will be specified in or pursuant to the applicable Work Order. If the Work Order does not state or refer to any





Acceptance criteria or procedures, then Acceptance of Services and/or Deliverables under a Work Order shall be based on the earliest of: (i) material conformance of such Services or Deliverables to their applicable specifications as agreed to by the parties or (ii) Client's failure to deliver written notice of non-conformance of such Services or Deliverables to Consultant within thirty (30) days of performance of the Services or delivery of the Deliverables to Client. Notwithstanding the above or any agreed Acceptance criteria in or pursuant to the applicable Work Order, Client's use of the Services or Deliverables in a production environment shall be deemed to constitute Client's acceptance of the relevant Services and/or Deliverables. Client acknowledges and agrees that Acceptance by Client of Services or Deliverables shall be conclusive and Client shall not be entitled to later reject any accepted (either expressly or by implication in accordance with this Clause 11f) Services or Deliverables.

### *Existing systems*

g. Where the Services and/or Deliverables are to be provided in relation to pre-existing systems of Client that use, incorporate or are otherwise reliant on software and/or intellectual property that are proprietary to a third-party ("Existing Systems"), Client confirms that it has the necessary rights, licences and/or permissions to allow the provision of relevant Services and/or Deliverables by Consultant. Consultant shall not be responsible for any breach of a third-party's intellectual property rights as a result of Client failing to obtain relevant rights, licences and/or permissions in relation to its Existing Systems. Consultant shall not be obliged to provide the Services and/or Deliverables (or any part thereof) where it reasonably believes that such provision may involve or result in a breach of a third-party's intellectual property rights in connection with the Existing Systems. Client shall indemnify and hold harmless Consultant and its Affiliates (together with the directors, officers, employees and agents of each) from and against any claim, demand, action, fine, penalty, liability, judgment, loss, damage, injury, cost and expense (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with any claim that Consultant's provision of the Services and/or Deliverables infringe or otherwise breach the rights (including intellectual property rights) of any third-party in or related to the Existing Systems. For the avoidance of doubt Clause 10d of the Agreement shall not apply to the indemnity in this Clause 11g.

### *Definition of IPR*

h. In Clause 11, the expression "intellectual property rights" means any patent, registered design, copyright, database right, design right, topography right, trade mark, service mark, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual property right of any nature whatsoever in any part of the world.

## 12 Confidential Information and Data Protection.

a. Obligations With Respect to Confidentiality. During the term of this Agreement and for a period of five (5) years thereafter, each party ("Receiving Party") acknowledges and agrees that it shall not use for any purpose other than performance of this Agreement, or disclose to anyone, other than its officers, employees or representatives with a need to know for purposes of this Agreement, any Confidential Information disclosed to it by the other party (the "Disclosing Party"). For purposes of this Agreement, the term "Confidential Information" shall be deemed to mean and include all such information, material and data of the Disclosing Party (i) labelled or designated in writing as confidential or proprietary, (ii) which the Receiving Party or its officers, employees, representatives, agents, consultants, contractors and subcontractors (collectively, "Representatives") are advised is proprietary or confidential or (iii) which, in view of the nature of such information and/or the circumstances of its disclosure the Receiving Party knows or reasonably should know is confidential or proprietary, and solely by way of illustration and not in limitation shall include the following: information relating to financial data, plans, forecasts, intellectual property, methodologies, algorithms, agreements, market intelligence, technical concepts, customer information, strategic analyses, internal developments, publications, accountings or any other activities conducted or planned by either party. The confidentiality obligations herein shall not apply to any such information (i) which is or becomes



publicly known without any fault of or participation by the Receiving Party, (ii) was in Receiving Party's possession prior to the time it was received from Disclosing Party or came into Receiving Party's possession thereafter, in each case lawfully obtained from a source other than Disclosing Party and not subject to any obligation of confidentiality or restriction on use, or (iii) is required to be disclosed by judicial, arbitral or governmental order or process or operation of law, in which event the Receiving Party shall notify the Disclosing Party of the requirement of disclosure before making such disclosure and shall comply with any protective order or other limitation on disclosure obtained by the Disclosing Party; or (iv) is independently developed by the Receiving Party by persons not having exposure to Disclosing Party's Confidential Information. The Receiving Party shall be permitted to use Confidential Information of the Disclosing Party in connection with any legal proceeding arising out of or in connection with this Agreement, provided the Receiving Party uses commercially reasonable efforts to disclose and/or file such Confidential Information under seal or to obtain a mutually agreed protective order governing the use and disclosure of such Confidential Information in the legal proceeding.

b. Ownership of Confidential Information. Confidential Information shall remain the exclusive property of the Disclosing Party and no patent, copyright, trade mark or other proprietary right is licensed, granted or otherwise transferred by this Clause 12 or any disclosure of Confidential Information to the Receiving Party. No warranties of any kind are given for the Confidential Information disclosed under this Agreement.

c. Return or Destruction of Confidential Information. Receiving Party agrees to return to the Disclosing Party, or to destroy (to the extent technically and legally practicable), any and all Confidential Information received pursuant to this Agreement, together with all copies that may have been made, promptly upon request of the Disclosing Party or, if not requested earlier, upon completion of the Services pursuant to the applicable Work Order or termination of this Agreement. Upon return or destruction of Confidential Information or any copies thereof, the Receiving Party shall certify in writing to the Disclosing Party that such destruction has occurred. Notwithstanding the foregoing, Consultant shall be permitted to retain a copy of Client's Confidential Information, a copy of the Deliverables in Consultant's Work Papers, and a copy of the Work Environments in accordance with Clause 0, subject to the continued applicability of and Consultant's continued compliance with this Clause 12.

d. Representations With Respect to Representatives. Receiving Party shall take all such actions with its Representatives as are commercially reasonable to effectuate the intent of this Clause 12, including but not limited to advising each Representative to whom Confidential Information is disclosed of his/her obligations regarding confidentiality and non-use of such information. With respect to Representatives who are not employees of Client, the Client shall, prior to any disclosure of Confidential Information, require such Representatives to execute a written confidentiality agreement with the Client or, where requested by Consultant, with Consultant, containing terms no less restrictive than those of this Clause 12. Receiving Party shall be and remain fully responsible for any breach of this Clause 12 by its Representatives.

e. Injunctive Relief. Both parties acknowledge that any use or disclosure of the other party's Confidential Information in a manner inconsistent with the provisions of this Clause 12 will or may cause the Disclosing Party irreparable damage for which remedies other than injunctive relief will or may be inadequate, and both parties agree that the Disclosing Party may request injunctive or other equitable relief seeking to restrain such use or disclosure.

f. E-Mail. Both parties acknowledge that, during the course of the Services, they may communicate by e-mail with each other and with other entities Client may have engaged. For the avoidance of doubt, any purported variations to this Agreement and/or to any Work Order made through email correspondence shall not be valid. Each party acknowledges and accepts that the other party cannot guarantee, and does not warrant, that e-mail transmissions will not be intercepted and read, disclosed or used by a third-party or will be delivered to each of the parties to whom they are addressed and only such parties. Each party specifically disclaims, and expressly acknowledges and agrees that the other party shall not have, responsibility or liability in connection with e-mail transmissions.



g. Data Protection.

i. Obligations with respect to Personal Data (as defined in the Data Protection Legislation). Both parties will in the performance of their respective obligations under this Agreement comply with all applicable requirements of the Data Protection Legislation and this Clause 12g. This Clause 12g is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this Agreement, Data Protection Legislation means the Privacy and Electronic Communications (EC Directive) Regulations 2003, SI 2003/2426, the General Data Protection Regulation (EU) 2016/679 ("EU GDPR") and the General Data Protection Regulation, Regulation (EU) 2016/679 as it forms part of domestic law in the United Kingdom by virtue of section 3 of the EU (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or a part of the United Kingdom from time to time) ("UK GDPR") and the Data Protection Act 2018.

ii. The parties acknowledge and agree that some or all of the Services to be provided by Consultant pursuant to Work Orders entered into under this Agreement will involve Consultant processing Personal Data of which Client is the Data Controller. The parties acknowledge and agree that, in respect of such processing, for the purposes of the Data Protection Legislation, Client is the Data Controller and Consultant is the Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Client shall ensure that it has all necessary appropriate consents and notices in place, and has carried out all necessary data protection impact assessments (as defined in the Data Protection Legislation), to enable the lawful transfer of any Personal Data to Consultant for the duration and purposes of this Agreement and any applicable Work Orders. Client also acknowledges and agrees that it shall be solely responsible for carrying out back-ups of all Client data. Consultant acknowledges that to the extent that the performance of its obligations hereunder involves or necessitates the processing of Personal Data it shall comply with the requirements set out in Clause 12g.iii to 12g.vi below.

iii. Each Work Order shall set out the scope, nature and purpose of processing by Consultant, the duration of the processing, the types of Personal Data and categories of data subject.

iv. Consultant shall, in relation to any Personal Data processed in connection with the performance by the Consultant of its obligations under this Agreement:

(a) process that Personal Data only on the written instructions of Client unless the Consultant is required by (i) any law, legislation, regulation, byelaw or subordinate legislation in force from time to time to which a party is subject; (ii) the common law and laws of equity as applicable to the Parties from time to time; (iii) any binding court order, judgment or decree; or (iv) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or organization (Applicable Laws). Where Consultant is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Consultant shall promptly notify Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Consultant from so notifying Client;

(b) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;



(c) ensure that all personnel and any authorised third parties (including sub-processors) who have access to and/or process Personal Data are contractually obliged to keep the Personal Data confidential;

(d) assist Client, at Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify Client without undue delay after becoming aware of a Personal Data breach;

(f) at the written direction of Client, delete or return Personal Data and copies thereof to Client on termination of this Agreement or the applicable Work Order unless required by Applicable Laws to store the Personal Data;

(g) maintain complete and accurate records and information to demonstrate its compliance with this Clause, which Consultant shall make available to Client on Client's request and at Client's cost. If the Client reasonably believes that the compliance information provided by the Consultant is insufficient to demonstrate its compliance, the Client has the right to have an audit or inspection performed by the Client or another auditor mandated by Client and as approved by Consultant (acting reasonably) to audit Consultant's compliance; and

(h) notify Client immediately if, in the opinion of Consultant, any instruction from the Client infringes the Data Protection Legislation or Applicable Laws.

v. Client consents to Consultant appointing third-party processors of Personal Data in connection with the performance by Consultant of its obligations under this Agreement. Consultant confirms that it has entered into or (as the case may be) will enter into a written agreement with any such third-party processors that incorporates terms that are substantially similar to those set out in this Clause 12g. As between Client and Consultant, Consultant shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 12g.

vi. As Consultant is part of an international group of companies, Client acknowledges and agrees that Consultant may wish to transfer Personal Data processed by it under this Agreement outside of the UK, for processing by Consultant's Affiliates or third parties. The parties agree that Personal Data for which Client is the Data Controller, will only be transferred outside of the UK under the following conditions:

(a) Consultant is processing the Personal Data in a territory which is subject to adequacy regulations under the Data Protection Legislation and that the territory provides adequate protection for the privacy rights of individuals;

(b) Consultant participates in a valid cross-border transfer mechanism under Data Protection Legislation; or

(c) the transfer otherwise complies with Data Protection Legislation.

vii. The parties may elect to amend this Clause 12g in accordance with Clause 20 (Waivers and Amendments) in order to adopt and implement any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.



h. Publicity. Except as provided in this Clause 12h, neither Party may use the name of the other in connection with any public advertising, public statements or publicity materials or activities without the prior written consent of the other Party. Consultant may include Client's name on Consultant's customer list, website and social media, and may describe briefly, and in general terms, the nature of the work performed by Consultant for Client.

## 13 Anti-Bribery and Corruption.

a. Each of the parties shall in the performance of their respective obligations under this Agreement:

i. comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

ii. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

iii. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and Clause 13a.ii, and will enforce them where appropriate;

iv. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by that party in connection with the performance of this agreement;

v. immediately notify the other party (in writing) if a foreign public official becomes an officer or employee of that party and that party warrants that it has no foreign public officials as officers or employees at the date of this agreement);

b. Breach of this Clause 13 shall be deemed a material breach under Clause 6.

c. For the purpose of this Clause 13, the meaning of adequate procedures and foreign public official shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

14 Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, neither party shall (directly or indirectly):

a. solicit for employment as an employee or engagement as an independent contractor, or

b. employ as an employee or engage as an independent contractor,

any individual who performed services on behalf of the other party in connection with, or was otherwise involved in the performance of, this Agreement, a Work Order or a Change Order. This provision shall not restrict general advertisements of recruitment or the rights of any individual employed or engaged by a party, on that individual's own initiative, or in response to general advertisements, to seek employment or engagement with the other party and under such circumstances, for the other party to employ or engage such individual.

15 Assignment. Neither party may assign this Agreement or any Work Order or Change Order executed in connection herewith or any rights or obligations under any of those instruments without the express written consent of the other party, except that (a) a party may assign all of its rights



and obligations to a third-party who has acquired all or substantially all of the business or assets of such party related to the performance of this Agreement through a sale, merger, consolidation, reorganisation or similar transaction and (b) certain Services may be performed by subcontractors to Consultant, provided that Consultant shall have in place written agreements with such subcontractors sufficient to enable Consultant to comply with its obligations under this Agreement and shall remain responsible for the Services provided by such subcontractors hereunder. Any attempted assignment in violation of this Clause 15 shall be void. Except as set forth above, this Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns.

16 Force Majeure. Neither party will incur any liability to the other party resulting from any delay or failure to perform all or any part of this Agreement, except payment obligations, if such delay or failure is caused, in whole or in part, by events, occurrences or forces beyond the reasonable control and without the negligence or other fault of such party. The time for performance of the affected party's obligations under this Agreement shall be automatically extended by a reasonable period.

17 Notices. Except as otherwise provided herein, all notices or other communications to be given or that may be given by either party to the other shall be deemed to have been duly given as follows:

- a. if sent by email: on confirmation of receipt; or
- b. if sent in hard-copy written form: (i) on delivery in person, or (ii) one working day after being sent by recognised overnight courier or (iii) five days after deposit in the United Kingdom inland mail, certified, postage prepaid, return receipt requested,

and in each case addressed as follows:

To Consultant:

Hitachi Solutions Europe Ltd  
110 Bishopsgate,  
23rd Floor, London  
EC2N 4AY

Attention: Head of Legal

Email: hseulegal@hitachisolutions.com

To Client:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Email: \_\_\_\_\_

The address to which notices or communications may be given to either party may be changed by written notice given by one party to the other pursuant to this Clause.

18 Survival. Clauses 3, 6c; 7; 8; 10; 11; 12; 14; 15; 17; 19; 20; 22; 23 and 25; of this Agreement shall survive the expiration or termination of this Agreement for any reason.

19 No Third-Party Beneficiaries. Except pursuant to Clause 8, the Contracts (Rights of Third-Parties) Act 1999 shall not apply to this Agreement.

20 Waivers and Amendments. No waiver of any right or remedy will be implied by failure to enforce such right or remedy and no express waiver will affect any rights or remedies other than that to which the waiver is applicable and only for that occurrence. No provision of this Agreement or any Work Order or Change Order shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is in writing and signed by authorised representatives of both parties.

21 Headings. The article, Clause and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

22 **Severability.** If any provision, or any portion of any provision, contained in this Agreement is determined to be invalid under any statute or rule of law, then it shall, to that extent alone, be deemed omitted, and the remainder of this Agreement shall remain in full force and effect.

23 **Entire Agreement.** This Agreement contains all the terms agreed between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing related to that subject matter. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this Agreement except as expressly stated in this Agreement. Neither party shall have any remedy in respect of any untrue statement made by the other upon which that party relied in entering into this Agreement (unless such untrue statement was made fraudulently or was as to a fundamental matter including as to a matter fundamental to the other party's ability to perform its obligations under this Agreement) and that party's only remedies shall be for breach of contract as provided in this Agreement. Misrepresentations as to fundamental matters shall be subject to the terms of Clause 10.

24 **Compliance with Law.** Each party shall act in strict compliance with all applicable laws, ordinances, regulations and other requirements of any and all governmental authorities, including without limitation all applicable export laws and regulations, in connection with its performance under this Agreement. Without limiting the generality of the foregoing, each party expressly agrees that it shall not, and shall cause its representatives to agree not to, export, directly or indirectly, re-export, divert or transfer the Deliverables or any direct product thereof to any destination, entity or person restricted or prohibited by any applicable export laws, regulations and controls and each party shall obtain all permits, licenses or other consents necessary for the performance of its duties under this Agreement.

25 **Governing Law and Jurisdiction.** The construction, validity and performance of this Agreement shall be governed by the laws of England. Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England over all disputes arising under or in connection with this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorised representatives as of the date first written above.

CONSULTANT:

**HITACHI SOLUTIONS EUROPE LTD**

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

CLIENT:

\_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_



**EXHIBIT "A"**  
**WORK ORDER NO. \_\_\_\_\_**  
**TO**  
**MASTER CONSULTING AGREEMENT**

THIS WORK ORDER NO. \_\_\_\_\_ ("WO") dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, is attached to and made a part of that certain Master Consulting Agreement dated \_\_\_\_\_, 2021 (the "Agreement") between Hitachi Solutions Europe Ltd a company incorporated in England with company number 04924233 and having its registered office at 110 Bishopsgate, 23rd Floor, London, EC2N 4AY ("Consultant"), and \_\_\_\_\_, a company incorporated in [\_\_\_\_\_] with company number [\_\_\_\_\_] and having its registered office at [\_\_\_\_\_] ("Client").

[Project Name]

- 1 Definitions and Interpretation
- 2 Project Overview
- 3 Project Approach
- 4 Scope
- 5 Project Charter
- 6 Client Responsibilities
- 7 Deliverables
- 8 Charges
- 9 Change Order Procedure
- 10 Risks, Assumptions, Constraints and Dependencies
- 11 Personal Data Processing
- 12 Disclaimer
- 13 Acceptance

CONSULTANT:

**HITACHI SOLUTIONS EUROPE LTD**

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

CLIENT:

\_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_



**EXHIBIT "B"**  
**CHANGE REQUEST NO. \_\_\_\_\_**  
**TO**  
**WORK ORDER NO. \_\_\_\_\_**

THIS CHANGE REQUEST ("CR") is dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and is attached to and made a part of that certain Master Consulting Agreement dated \_\_\_\_\_, 2021 (the "Consulting Agreement") by and between Hitachi Solutions Europe Ltd a company incorporated in England with company number 04924233 and having its registered office at 110 Bishopsgate, 23rd Floor, London, EC2N 4AY ("Consultant") and \_\_\_\_\_, a company incorporated [\_\_\_\_\_] with company number [\_\_\_\_\_] and having its registered office at [\_\_\_\_\_] ("Client").

This CR modifies, amends, changes and/or supplements Work Order No. \_\_\_\_\_, dated \_\_\_\_\_, 2021, as follows

**Change Description**

1. Summary Information
2. Effort and Cost
3. Decision
4. Acceptance

Work Order No. \_\_\_\_\_, is in full force and effect, except as otherwise modified, amended or supplemented by this CR.

Agreed and Accepted:

CONSULTANT:

**HITACHI SOLUTIONS EUROPE LTD**

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

CLIENT:

\_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_