

## **HITACHI DATA SYSTEMS LICENSE AGREEMENT AND LIMITED WARRANTY FOR STORAGE SOFTWARE**

**READ THIS CAREFULLY BEFORE OPENING THIS PACKAGE OR USING THE EQUIPMENT OR SOFTWARE. BY OPENING THIS PACKAGE OR USING THE EQUIPMENT OR SOFTWARE, YOU, THE CUSTOMER, AGREE TO BE BOUND BY THE FOLLOWING LICENSE TERMS. IF YOU DO NOT WANT TO ENTER INTO THIS LICENSE, THEN PLEASE RETURN THIS EQUIPMENT AND SOFTWARE IN ITS UNOPENED PACKAGE TO YOUR HITACHI DATA SYSTEMS SALES REPRESENTATIVE OR AUTHORIZED RESELLER FOR CREDIT.**

This License Agreement and Limited Warranty (the "Agreement") sets forth the terms that govern your use of the Hitachi Intellectual Property accompanying the Equipment (as defined below) purchased from Hitachi Data Systems ("HDS") or one of its authorized resellers. These terms and conditions apply unless (i) You have signed a separate formal agreement with HDS, in which case that separate agreement shall govern; or (ii) other HDS standard terms apply to the transaction.

### **1. Definitions**

- (a) "Diagnostic and Service Related Material" means software, programs, hardware, manuals and other documentation of HDS or a licensor to HDS that is used or held for use by HDS, an HDS authorized service provider or a contractor to perform either diagnostic or maintenance services. Diagnostic and Service Related Material does not include Equipment Software, Hi-Track Material, Programs, or Shrink-wrap Software.
- (b) "Equipment" means the storage product purchased from HDS or one of its authorized resellers on which or in conjunction with which You are running or wish to run Equipment Software or Programs.
- (c) "Equipment Software" means internal code and computer software, including the machine-readable instructions or data, supplied with an item of Equipment (other than any Programs, Diagnostic and Service Related Material, Shrink-wrap Software or Hi-Track® Material) and all related licensed materials (including, without limitation, documentation in any form) and all copies, updates and upgrades.
- (d) "Hitachi Intellectual Property" means any one or more of the Diagnostic and Service Related Material, Equipment Software, Hi-Track Material, and Programs.
- (e) "Hi-Track® Material" means that hardware, software and/or microcode installed or operating on certain Equipment necessary to perform the Hi-Track remote diagnostic and monitoring services ("Hi-Track Services") on an eligible item of such Equipment. In order for eligible Equipment to receive Hi-Track Services, You must enter into a service agreement for the Equipment with HDS or an HDS authorized service provider. The Hi-Track Material shall remain only at the Equipment location. If for any reason HDS does not or ceases to provide You with Hi-Track Services and HDS requests the return of Hi-Track Materials or access to the Equipment (for itself or a designee) to purge or destroy Hi-Track Material, You shall comply with such request.
- (f) "Programs" means computer software, including the machine-readable or machine-compressed instructions or data, and related licensed materials (including documentation in whatever form), which is separately ordered from HDS or an authorized HDS reseller and is not provided as a standard element of the Equipment. Programs also includes all copies, updates and upgrades. Programs does not include Diagnostic and Service Related Material, Equipment Software, Hi-Track Material or Shrink-wrap Software.
- (g) "Shrink-wrap Software" means computer software provided to You under separate shrink-wrap, click-wrap or other license for use in connection with the Equipment. Your use of such Shrink-wrap Software will be governed by those license(s), including any warranties, liability limitations and restrictions on transferability, and conditions under which such license terminates. You will have no recourse against HDS regarding such Shrink-wrap Software, unless HDS is the licensor under that license.

## 2. Licenses

(a) Subject to the terms of this Agreement, HDS hereby grants You a personal, nontransferable (except as provided for herein), non-exclusive license to use Equipment Software for the sole purpose of enabling the Equipment to function according to its specifications.

(b) You may transfer possession of the Equipment Software to a third-party provided that: (i) the transfer shall occur in conjunction with the transfer to the third-party of the Equipment on which the Equipment Software is installed; (ii) the third-party transferee is furnished with a legible and complete copy of this Agreement; and (iii) the third-party transferee agrees to be bound by the terms of this Agreement upon the earlier of (A) its initial use of the Equipment Software or (B) the transfer of the Equipment Software. Unless HDS expressly agrees otherwise in writing, any third-party transferee accepts the Equipment Software, and the Equipment on an "as-is" basis, and neither HDS nor any of its direct or indirect licensors shall have any liability whatsoever to the third-party transferee for any claims relating to the Equipment Software or the Equipment.

(c) Subject to the terms of this Agreement, if You separately ordered any Programs, HDS grants You a personal, non-transferable, non-exclusive license to use such Programs on or in conjunction with the Equipment. You may use the Programs only for Your internal business purposes and internal data processing. The computer software part of the Programs may be used only as provided in either machine-readable object code form or machine-compressed form, and the related documentation may be used only in printed or electronic form. The right to use these Programs does not transfer along with the Equipment.

(d) HDS or its direct or indirect licensors own all right, title and interest in and to the Equipment Software and Programs. The Equipment Software and Programs are protected by U.S. and other copyright laws and the laws protecting trade secret and confidential information. The Equipment Software and Programs contain trade secret and confidential information, and their unauthorized disclosure is prohibited. All revisions and upgrades of the Equipment Software and Programs that are not separately licensed will be governed under these licenses.

(e) You receive no license, rights or other interest in Diagnostic and Service Related Material, or Hi-Track Material.

(f) You may make one backup copy of the Equipment Software and Programs, provided that You reproduce on that backup copy all original copyright notices and other notice statements. If the Equipment becomes temporarily inoperable, You may load and use Equipment Software or Programs on another unit of equivalent storage equipment purchased from HDS or one of its authorized resellers until the Equipment becomes operable. In all other instances, You must obtain HDS' written consent before changing the Equipment.

(g) Except as expressly permitted under this Agreement or by applicable law without the possibility of contractual waiver, You may not use, copy, merge, transmit, modify, reverse engineer, decompile or disassemble the Diagnostic and Service Related Materials, Equipment Software, Hi-Track Material or Programs, or sublicense, rent, lease, assign or otherwise transfer the Diagnostic and Service Related Materials, Equipment Software, Hi-Track Material or Programs or this Agreement to anyone.

**3. Charges, Payment, and Taxes:** Payment must be made to the party (either HDS or its authorized reseller) from whom you acquired the Equipment Software and Programs. If you acquired them from HDS, you agree to pay as HDS specifies. If any authority imposes a duty, tax, levy or fee (excluding those based on HDS' net income) on the Equipment Software and Programs licensed by HDS under this Agreement, you agree to pay the amount that HDS specifies or supply appropriate exemption documentation. HDS does not give refunds or credits for charges already due or paid.

**4. Termination:** Your license(s) for the applicable Equipment Software and/or Programs shall automatically terminate when (i) You are provided an upgrade, revision or replacement for the Equipment Software or Programs, (ii) You are no longer in possession of the Equipment, or (iii) You violate the terms of this Agreement. You must thereupon immediately stop using such Equipment Software and/or Programs, as well as all related copies, and, to the extent they are in Your possession or control, You must purge and destroy them or return them to HDS.

## 5. Limited Warranty and Remedies

(a) HDS warrants for 90 days following delivery of the Equipment Software and Programs to You (the "Warranty Period") that: (i) the media will be free of defects in material and workmanship; and (ii) the Equipment Software and Programs, when properly installed on the Equipment or Your hardware, as applicable, and when used by Your authorized personnel strictly in accordance with the related end-user documentation, will perform substantially as described in that documentation.

(b) During the Warranty Period, HDS will provide telephone assistance 5 days a week (Monday through Friday), from 8:00 a.m. to 5:00 p.m. Pacific time for the Americas, from 9:00 a.m. to 5:00 p.m. local time for Europe and from 8:00 a.m. to 5:00 p.m. local time for Asia and the Pacific. In the event additional assistance or on-site service is requested by You, HDS or an HDS authorized service provider may provide such "billable service" subject to the terms and conditions of a service agreement covering the applicable Equipment Software or Program. HDS will provide software support as it makes generally available for the Equipment Software and Programs, subject to the terms of an HDS service agreement covering such Equipment Software or Program and Your payment of related support fees.

**THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO EQUIPMENT SOFTWARE AND PROGRAMS. HDS DISCLAIMS, AND YOU HEREBY WAIVE, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY AND THE STATUTORY WARRANTY OF NON-INFRINGEMENT. HDS, ITS RESELLERS, LICENSORS AND DEVELOPERS OF EQUIPMENT SOFTWARE AND PROGRAMS DO NOT WARRANT THAT THE EQUIPMENT, EQUIPMENT SOFTWARE OR PROGRAMS WILL OPERATE UNINTERRUPTED OR ERROR-FREE, OR IN THE COMBINATIONS YOU MAY SELECT, OR THAT USE OF EQUIPMENT SOFTWARE OR PROGRAMS WILL MEET YOUR REQUIREMENTS.**

(c) In case of breach of the warranty, HDS at its option will: (i) replace the defective Equipment Software or Programs; (ii) repair or correct the defective Equipment Software or Programs, so they will operate in substantial conformance with their applicable end user documentation; or (iii) refund the license fee paid by You for the defective Equipment Software or Programs, provided that You either purge the applicable Equipment Software or Programs from the Equipment and/or Your hardware, or at HDS' instruction, You return the applicable Equipment Software or Programs to HDS. Any claim based on this warranty must be submitted in writing within the applicable Warranty Period. The foregoing states Your sole and exclusive remedy and HDS' sole and exclusive liability with respect to any breach of the warranty.

(d) The foregoing warranties do not cover any Equipment Software or Programs that has been damaged by accident, neglect, misuse, abuse, natural disaster, an unsuitable physical operating environment, maintenance not in accordance with the procedures recommended by its supplier, or modification without HDS' prior written consent.

(e) Regardless of the basis for any claim, whether in contract, tort, or otherwise, HDS will be liable to You only for the amount of Your actual direct loss or damage relating to the Equipment Software or Programs, up to the license fee paid by You for the Equipment Software or Programs giving rise to the actual direct loss or damage, less depreciation based on a 5-year double declining balance (with no salvage value), plus a pro-rata share of any support fees which You actually paid to HDS for the period during which the Equipment Software or Programs were not usable. This limit also applies to HDS' resellers, licensors and developers of Equipment Software or Programs and is the maximum for which HDS and those parties will be collectively responsible. HDS will also be liable for bodily injury (including death) and damage to real property or tangible personal property caused by the Equipment Software or Programs (except to the extent such losses were caused by Your acts or omissions or those of a third party).

(f) Irrespective of the basis of the claim, HDS as well as its resellers, licensors and developers of Equipment Software or Programs will not be liable for any special, indirect, punitive, incidental or consequential damages of any kind (including, without limitation lost profits, loss of or damage to Your records or data, or the cost of cover). Nor will HDS be liable for any third party claims unless specifically provided in this Agreement. Neither party may bring a legal action under this Agreement more than two years after the cause of action arose.

## **6. Infringement Indemnification**

(a) HDS will defend at its expense any third party legal action brought against You to the extent that it is based upon a claim that any Equipment Software or Programs used within the scope of this Agreement directly infringes a United States patent or United States copyright. HDS will pay costs and damages finally awarded against You in any action that are attributable to such claim, or any settlement amount payable by You, provided that You: (i) notify HDS promptly in writing of the claim; (ii) permit HDS to have sole control of the defense, compromise or settlement, and (iii) cooperate fully with HDS in the defense or settlement of the claim, at no cost to HDS.

(b) HDS will have no liability for any claim of infringement based on: (i) use of superseded or altered versions or releases of Equipment Software or Programs if the infringement would have been avoided by the use of a current unaltered version or release of the Equipment Software or Programs, (ii) modification of any Equipment Software or Programs by other than HDS, or (iii) the combination, operation, or use of the Equipment Software or Programs with hardware, software, or data not furnished or authorized in writing by HDS if the infringement would have been avoided without such modification, combination, or use.

(c) Should the Equipment Software or Programs become, or in HDS' opinion be likely to become, the subject of an infringement claim, You will permit HDS, at HDS' option and expense, to: (i) replace or modify the Equipment Software or Programs so that it becomes non-infringing, (ii) obtain for You the right to continue using the Equipment Software or Programs or (iii) grant You a credit in the amount of the license fee paid by You for the Equipment Software or Programs, as depreciated on a five (5) year double-declining balance basis (with no salvage value) and any unearned portion of the current support fee for such Equipment Software or Programs.

(d) The foregoing states the entire liability of HDS, its resellers, licensors and developers of Equipment Software or Programs and Your exclusive remedy for any claim of infringement or misappropriation of intellectual property rights related to Equipment Software or Programs.

**7. Export Policy:** You agree that You shall not directly or indirectly, export, re-export or transship any Equipment Software, Programs or related documentation in violation of any applicable export control laws or regulations promulgated and administered by the governments of the countries claiming jurisdiction over the parties or transactions. You acknowledge that U.S. laws, regulations and requirements regulate the export of U.S. origin products/technology and prohibit use, sale or re-export if You know, or have reason to know, that such products/technology are for use in connection with the design, development, production, stockpiling or use of nuclear, chemical or biological weapons or missiles.

**8. Restricted Rights:** With respect to any acquisition of the Equipment by or for any unit or agency of the U.S. Government, Diagnostic and Service Related Material, Equipment Software, Hi-Track Material, Programs and Shrink-wrap Software shall be classified as "commercial computer software" as defined in the applicable provisions of the Federal Acquisition Regulation ("FAR") 12.212 dated October 1988. The Diagnostic and Service Related Material, Equipment Software, Hi-Track Material, Programs and Shrink-wrap Software were developed entirely at private expense and no part of them was first produced in the performance of a U.S. Government Contract. If the Diagnostic and Service Related Material, Equipment Software, Hi-Track Material, Programs and Shrink-wrap Software are supplied for use by the Department of Defense ("DOD"), they are delivered subject to the terms of this Agreement and in accordance with DOD FAR Supplement ("DFARS") 227.7202-1(a). If the Diagnostic and Service Related Material, Equipment Software, Hi-Track Material, Programs and Shrink-wrap Software are supplied for use by a Federal agency other than DOD, they are restricted computer software delivered subject to the terms of this Agreement and (i) FAR 12.212(a); (ii) FAR 52.227-19; or (iii) FAR 52.227-14 (ALT III), as applicable. In no event does the DOD or any other Federal agency receive or have any right to any of HDS' diagnostic programs or maintenance manuals. The HDS diagnostic programs and maintenance manuals were developed at HDS' private expense and are not a contract deliverable.

**9. Governing Law:** This Agreement is governed by the laws of the country in which you acquired the Equipment.

## COUNTRY UNIQUE TERMS ARGENTINA:

**Limited Warranty and Remedies, Section 5(d).** The following sentence is added to this Section:

HDS will not be liable for: (i) the Product's performing in a way different than that described in its accompanying documentation after ninety (90) days following delivery; or (ii) interruptions or errors in the operation of the Product to the extent such interruptions or errors may be reasonably expected under normal operation.

**Termination, Section 4.** The following shall be added to this Section:

The parties waive the right established under articles 216 of the Argentine Commercial Code and 1204 of the Argentine Civil Code to remedy any breach of this Agreement.

**Governing Law, Section 9.** This Agreement shall be governed by the laws of the Republic of Argentina. Should any difference or dispute arise between the parties with regard to this Agreement, they shall be exclusively and finally settled by the General Arbitration Court of the Bolsa de Comercio de Buenos Aires, in accordance with the regulations applicable to arbitraje de derecho, which the parties know and accept. The ordinary courts of the city of Buenos Aires shall have venue for the enforcement of any award.

**ASEAN COUNTRIES:** Hitachi Data Systems ("HDS") shall refer to HITACHI DATA SYSTEMS PTE. LTD.

**AUSTRALIA:** Insert after notice and before the first paragraph:

Without limiting HDS' right to rely upon these terms being binding as a "shrink-wrap license", these terms form part of Your agreement with HDS made when You agreed to obtain the Equipment from HDS or its reseller.

**Licenses, Section 2(f).** The first sentence is replaced with the following:

You may, subject to Your rights under the Copyright Act 1961, make one backup copy of the Equipment Software and Programs, provided that You reproduce on that backup copy all of the original copyright notices.

**Licenses, Section 2(b).** Subsection (iii) is replaced with the following:

the third-party transferee agrees to be bound into an agreement with HDS on the terms of this Agreement and, for this purpose (and no other), You are appointed and agree to act as agent of HDS.

**Infringement Indemnification, Section 6(a).** This Section is amended as follows:

References to "United States patent or United States copyright" should be read as referring to "United States or Australian patent or United States or Australian copyright".

**Sections 1(e), 2(b), 5(b), 5(d), 5(e), and 5(f)** are subject to the following limitation on liability:

Where it is not lawful or possible to exclude conditions, warranties or rights implied or given in respect of this Agreement by the Trade Practices Act 1974 or other laws, HDS' liability for any breach of such implied conditions, warranties or rights will (but only to the extent allowed by law) be limited (at HDS' option):

- (a) in the case of goods supplied, to the replacement or repair of the goods or the supply of equivalent goods, the payment of the cost of repairing or replacing the goods or of acquiring equivalent goods;
- (b) in the case of services supplied, to the supplying of the services again or the payment of the cost of having the services supplied again.

All other implied conditions, warranties and rights, together with any implied by custom or other circumstances, are excluded.

**BELGIUM: Limited Warranty and Remedies, Section 5(e).** The following sentence is added to this Section:

HDS does not exclude its liability for its intentional faults or acts of bad faith.

**CANADA: Governing Law, Section 9.** This Agreement is governed by the laws of the Province of Ontario.

**CENTRAL EUROPE & RUSSIA: Governing Law, Section 9.** This Agreement is governed by the material laws of Austria. All disputes and controversies between the parties arising out of, or in connection with this Agreement or its implementation, performance or interpretation, shall be finally settled under the Rules of Arbitration and Reconciliation of the Arbitral Centre of the Federal Economic Chamber in Vienna (Vienna Rules), by three arbitrators appointed in accordance with said Rules. The arbitration shall be held in Vienna, Austria. The official language of the proceedings shall be English. The decision of the arbitrators shall be final and binding upon both parties and therefore, the parties pursuant to paragraph 598(2) of the Austrian Code of Civil Procedure, expressly waive the application of paragraph 595(1), figure 7 of said Code. The clauses set forth above shall, however, in no way limit our right to institute proceedings in any competent court.

**EGYPT: Governing Law, Section 9.** This Agreement is governed by the laws of Egypt. All disputes arising in connection with this Agreement shall be resolved amicably or finally settled in Arbitration to be held in Egypt.

**ESTONIA, LATVIA, LITHUANIA: Governing Law, Section 9.** All disputes arising in connection with the present Agreement shall be finally settled in Arbitration. Each party shall appoint one arbitrator and they shall jointly appoint the chairman. If they cannot agree on the chairman, then the chairman shall be appointed by the Central Chamber of Commerce in Helsinki. In the Arbitration the laws of Arbitration will be adhered to. Finnish law shall apply. The arbitrators shall come together in Helsinki.

**FRANCE: Limited Warranty and Remedies, Section 5(e).** The first sentence in this Section is replaced by the following:

For any contractual claim, HDS will be liable to You only for the amount of Your actual direct loss or damage relating to the Equipment Software or Programs, up to the license fee paid by You for the Equipment Software or Programs, less depreciation based on a 5-year double declining balance (with no salvage value), plus a pro-rata share of any support fees which You actually paid to HDS for the period during which the Equipment Software or Programs were not usable.

**GERMANY, AUSTRIA, SWITZERLAND: Limited Warranty and Remedies, Section 5(d).** The warranty for HDS-created Equipment Software and Programs covers the functionality of the Equipment Software and Programs for its normal use. If Equipment Software and Programs is delivered without specifications, HDS will only warrant that the Equipment Software and Programs' information correctly describes the Equipment Software and Programs and that it can be used according to such information. For non-HDS-created Equipment Software and Programs, which are contracted and delivered by HDS, the warranty for HDS-created Equipment Software and Programs applies unless agreed otherwise in writing. Warranty service for non-HDS-created Equipment Software and Programs may be performed by non-HDS manufacturers.

**Limited Warranty and Remedies, Section 5(e).** The limitations and exclusions specified in the Agreement will not apply to damages caused by HDS with intention or gross negligence. HDS is liable for assured characteristics.

**Limited Warranty and Remedies, Section 5(f).** The limitation on bringing a legal action is not applicable in case of tort by either HDS or You, or either party's agents.

**HONG KONG SPECIAL ADMINISTRATIVE REGION: Licenses, Section 2(d).** At the end of this paragraph there shall be added the following:

Without in any way limiting the foregoing, You expressly waive and relinquish Your right to copy or adapt any of the Equipment Software and Programs (or any part of the Equipment Software and Programs) as may otherwise be permitted by Section 61 of the Hong Kong Copyright Ordinance.

**Limited Warranty and Remedies, Section 5(b).** The second sentence of the second paragraph of this Section is replaced by the following:

TO THE FULLEST EXTENT PERMITTED BY LAW, HDS DISCLAIMS, AND YOU HEREBY WAIVE, ANY AND ALL OTHER EXPRESSED OR IMPLIED WARRANTIES INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY AND THE STATUTORY WARRANTY OF NON-INFRINGEMENT.

**Limited Warranty and Remedies, Section 5(e).** The final sentence of this Section shall be amended to read as follows:

HDS will be liable for damage to real property or tangible personal property caused by the Equipment Software or Programs (except to the extent that the losses were caused by Your acts or omissions or those of a third party) and shall be liable without limit for death and personal injury resulting from the negligence of HDS.

**Infringement Indemnification, Section 6.** Subsection (a) shall be amended as follows:

References to “United States patent or United States copyright” should be read as referring to “United States or Hong Kong patent or United States or Hong Kong copyright”.

**INDIA: Limited Warranty and Remedies, Section 5(e).** The final sentence of this Section shall be deleted in its entirety.

**INDONESIA: Termination, Section 4.** The following shall be added to this Section:

To the extent necessary to implement the termination provisions of this Agreement, each of the parties hereby waives any right or obligation that the other party may now or hereafter have under any applicable law or regulation to request or obtain the approval, order, decision or judgement of any court or other authority to terminate this Agreement.

**IRELAND: Limited Warranty and Remedies, Section 5.** Except as expressly provided in these terms and conditions, all statutory conditions, including all warranties implied, but without prejudice to the generality of the foregoing all warranties implied by the Sale of Goods Act of 1893, or the Sale of Goods and Supply of Services Act 1980, are hereby excluded.

**ISRAEL: Limited Warranty and Remedies, Section 5(f).** The limitation on bringing a legal action will be according to the law of limitation, provided a notification concerning the cause of action was sent no more than two years after the cause of action arose or became known to plaintiff.

**ITALY: Licenses, Section 2.** At the end of this Section, there shall be added the following new Subsection (h):

The above provisions are without prejudice to statutory provisions of Article 64-quarter of Law no 663 dated 22 April 1941.

**Governing Law, Section 9.** The sentence of this Section is replaced by the following:

This Agreement shall be governed by the laws of Italy.

**Limited Warranty and Remedies, Section 5(e).** The first sentence of this Section is replaced by the following:

For any contractual claim, HDS shall be liable to You only for the amount of Your actual direct loss or damage relating to the Equipment Software or Programs, up to the license fee paid by You for the Equipment Software or Programs, less

depreciation based on a 5-year double declining balance (with no salvage value) plus a pro rata share of any support fees which You actually paid to HDS for the period during which the Equipment Software or Programs were not usable.

The limitation and exclusions specified in the Agreement shall not be applied to damages caused by HDS with intention or gross negligence. HDS shall be liable for any specification or quality of the Equipment Software or Programs expressly guaranteed to You.

The limitation and the exclusions of liability specified in this Section shall be applied without prejudice to all statutory provisions implied by Articles 1469-bis and 1579 of the Italian Civil Code and by Law no 224 dated 24 May 1988 and Dlgs no 115 dated 17 March 1995.

**Limited Warranty and Remedies, Section 5(f).** The final sentence of this Section shall be deleted in its entirety.

**MEXICO: Termination, Section 4.** This Section is replaced by the following:

This Agreement or any Product license may be terminated immediately without previous judicial declaration by either party for breach of this Agreement at which time all rights granted to You will immediately cease and You will immediately cease the use of the Product and promptly purge and destroy all copies of the Product.

**Governing Law, Section 9.** The parties agree that the Courts of the City of Mexico shall have exclusive jurisdiction to determine the validity, interpretation, and performance of this Agreement.

**MIDDLE EASTERN COUNTRIES: ABU-DHABI(UAE), BAHRAIN, DUBAI(UAE), OMAN, KUWAIT, QATAR**  
**Governing Law, Section 9.** This Agreement is governed by the law and jurisdiction of Bahrain.

**NETHERLANDS: Limited Warranty and Remedies, Section 5(e).** The following sentence is added to this Section:

HDS does not exclude its liability for damages caused by HDS with intention or gross negligence.

**Limited Warranty and Remedies, Section 5(f).** The final sentence of this Section shall be amended to read as follows:

Neither party may bring a legal action under this Agreement more than two years after the cause of action arose or became known to plaintiff.

**NEW ZEALAND: Limited Warranty and Remedies, Section 5.** The warranties specified in this Section are in addition to any rights You may have under the Consumers Guarantee Act 1993 (the “Act”) or other legislation, which cannot be excluded or limited. The Act will not apply in respect of any goods or services that HDS provides, if You require the goods or services for the purposes of a business as defined in the Act.

**Limited Warranty and Remedies, Section 5.** The following paragraph should be added to this Section:

Where products or services are not acquired for the purposes of a business as defined in the Consumer Guarantees Act 1993, the limitations in this Section are subject to the limitations in that Act. Where the liability of HDS under any implied warranty or term cannot be excluded or where any exclusion of that liability is held to be invalid, HDS’ liability for breach of that implied warranty or term will be limited to the amount paid by You for the Equipment Software or Programs supplied.

**PEOPLE'S REPUBLIC OF CHINA: Infringement Indemnification, Section 6.** Subsection (a) shall be amended as follows:

References to “United States patent or United States copyright” should be read as referring to “United States or People’s Republic of China patent or United States or People’s Republic of China copyright”.

**PHILIPPINES: Infringement Indemnification, Section 6.** Subsection (a) shall be amended as follows:

References to “United States patent or United States copyright” should be read as referring to “United States or Philippines patent or United States or Philippines copyright”.

**SAUDI ARABIA: Limited Warranty and Remedies, Section 5(b).** The second paragraph of this Section shall be replaced with the following:

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO EQUIPMENT SOFTWARE AND PROGRAMS. HDS DISCLAIMS, AND YOU HEREBY WAIVE, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. HDS, ITS RESELLERS, LICENSORS AND DEVELOPERS OF EQUIPMENT SOFTWARE AND PROGRAMS DO NOT WARRANT THAT THE EQUIPMENT SOFTWARE, PROGRAMS OR THE SYSTEM WILL OPERATE UNINTERRUPTED OR ERROR-FREE. THE REMEDY FOR BREACH OF WARRANTY IN THIS SECTION SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND HDS’ SOLE AND EXCLUSIVE LIABILITY.

**Governing Law, Section 9.** The sentence in this Section is replaced with the following:

The validity of this Agreement, its interpretation and enforcement will be governed by the laws of Saudi Arabia. Any dispute arising out of, or relating to, or in any way connected with this Agreement shall be subject to the exclusive jurisdiction of the competent tribunal of the Board of Grievances, whose decision shall be final and binding on the parties.

**SINGAPORE & MALAYSIA: Limited Warranty and Remedies, Section 5(b).** The second paragraph of this Section shall be replaced with the following:

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO THE EQUIPMENT SOFTWARE AND PROGRAMS. TO THE FULL EXTENT PERMITTED UNDER ALL APPLICABLE LAWS, HDS DISCLAIMS, AND YOU HEREBY WAIVE, ANY AND ALL OTHER EXPRESS OR IMPLIED TERMS CONDITIONS AND/OR WARRANTIES INCLUDING THE IMPLIED TERMS CONDITIONS AND/OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND/OR SATISFACTORY QUALITY. HDS, ITS RESELLERS, LICENSORS AND DEVELOPERS OF EQUIPMENT SOFTWARE AND PROGRAMS DO NOT WARRANT THAT THE EQUIPMENT SOFTWARE, PROGRAMS OR THE SYSTEM WILL OPERATE UNINTERRUPTED OR ERROR-FREE. EACH REMEDY FOR BREACH OF WARRANTY LISTED BELOW SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND HDS’ SOLE AND EXCLUSIVE LIABILITY.

**SPAIN: Limited Warranty and Remedies, Section 5.** The following sentence is added to this Section:

HDS does not exclude its liability for wilful misconduct or severe negligence.

**Limited Warranty and Remedies, Section 5(f).** The second sentence of this Section is deleted in its entirety.

**TAIWAN:** The following paragraphs are added to the end of the Agreement:

You confirm that HDS or its authorized reseller has provided adequate opportunity for You to carefully read the full content of this Agreement, and You have sole discretion to refuse the Agreement in the event You believe that any of its provisions are unfair.

The foregoing limitations, exclusions and disclaimers shall apply to the maximum extent permitted by applicable Taiwan laws and regulations.

**UNITED KINGDOM: Limited Warranty Remedies, Section 5(b).** The first two sentences of the second paragraph of this Section are replaced by the following:

THESE WARRANTIES REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Limited Warranty and Remedies, Section 5(b).** The first sentence of this Section is replaced by the following:

This limitation will not apply for claims of death or personal injury or physical damage to Your tangible property caused by HDS' negligence, or to any breach of HDS' obligations implied by Section 12 of the Sales of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

**UNITED STATES OF AMERICA: Governing Law, Section 9.** This Agreement is governed by the laws of the State of Delaware, without regard to its conflicts of law principles.

Hitachi Data Systems is registered with the U.S. Patent and Trademark Office as a trademark and service mark of Hitachi, Ltd. The Hitachi Data Systems logotype is a trademark and service mark of Hitachi, Ltd.

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