

# Global-Active Device Cloud Quorum License Terms

These License Terms (the "**Terms**") between You and Hitachi Vantara LLC ("**Hitachi**"), located at 2535 Augustine Drive, Santa Clara CA 95054, apply to the Global-Active Device Cloud Quorum ("**Cloud Quorum**") provided to You by Hitachi.

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## CLOUD QUORUM LICENSE TERMS

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**6. Verification Rights** Hitachi or its independent auditor may, upon reasonable notice to You, examine and audit Your records and systems to ensure compliance with applicable software licenses. The audit will be

performed during normal business hours in a manner which does not unduly interfere with Your business operations.

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**9. Liability Limitations.** WE EACH ACKNOWLEDGE THE FULL EXTENT OF OUR OWN LIABILITY TO THE OTHER ARISING FROM DEATH OR PERSONAL INJURY RESULTING FROM OUR NEGLIGENT ACTS OR OMISSIONS; THE NON-EXCLUDABLE STATUTORY RIGHTS OF CONSUMERS (FOR EXAMPLE, UNDER LAWS PROVIDING FOR STRICT PRODUCT LIABILITY), THE BREACH OF ANY OBLIGATION OF CONFIDENCE, AND YOUR BREACH OF THESE TERMS. EXCEPT FOR: (A) THE IMMEDIATELY PRECEDING SENTENCE, (B) REQUIREMENTS UNDER APPLICABLE LAW, OR (C) AS OTHERWISE AGREED IN WRITING, IN NO EVENT WILL HITACHI BE LIABLE TO YOU FOR ANY DAMAGES, INCLUDING ANY DIRECT, GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE CLOUD QUORUM (INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY YOU OR THIRD PARTIES OR A FAILURE OF THE CLOUD QUORUM TO OPERATE WITH ANY OTHER SOFTWARE), EVEN IF SUCH HOLDER OR OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**10. Confidential Information.** Each of us must keep each other's Confidential Information confidential, using the same degree of care used to protect our own Confidential Information. We won't disclose Your Confidential Information to anyone else, unless You allow us to, and You must do the same with our Confidential Information. We can, however, disclose it to our employees and contractors who need to know the information in order to perform obligations under these Terms.

**11. Export Compliance.** You acknowledge that in various countries, laws and regulations regulate the export of computer products and technology which may prohibit use, sale or re-export of such products or technology if You know or have reason to know that such products and technology are for use in connection with the design, development, production, stock piling or use of nuclear, chemical or biological weapons or missiles and in some countries (e.g. China) for certain conventional military end-uses. If You sell or transfer to another person or entity title in or right to use the Cloud Quorum, You will ensure that all applicable export restrictions of the nature described in this section are observed.

**12. Termination of License.** Your license in the Cloud Quorum will terminate: (i) when Hitachi provides You thirty (30) days' notice that Your license to the Cloud Quorum has been terminated; or (ii) if You are in breach of any of these Terms or any license for Third-Party Software.

**13. Dispute Resolution.** Both of us will use reasonable efforts to get an appropriate person from our respective management teams to meet and attempt to resolve any dispute regarding these Terms in good faith. If they are unable to resolve the dispute within 30 days, either of us may resort to alternate dispute resolution such as arbitration or otherwise seek recourse from the courts. Either party may seek injunctive or other urgent equitable relief at any time.

**14. Governing Law.** These Terms will be governed by New York law, with venue and exclusive jurisdiction in the appropriate courts in Manhattan, New York. To the extent allowed, the United Nations Convention on Contracts for the International sale of goods and its implementing legislation will not apply to these Terms.

**15. Support.** Hitachi will provide You support for the Cloud Quorum in accordance with Your support plan for Hitachi Global Active Device.

**16. Miscellaneous.** Neither of us will be responsible for any failure to meet any of our obligations (except payment obligations, as applicable) due to matters beyond our reasonable control provided reasonable efforts have been made to perform them. You must not assign, or otherwise transfer any of Your rights under these Terms without Hitachi's prior written agreement. Notices made under these Terms must be in writing to a senior executive. Notices will be deemed given: where they are hand delivered, when a duly authorized employee or representative of the recipient

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**Equipment:** hardware and spare parts manufactured by Hitachi or Hitachi Ltd., or Hitachi has authorized You to use with the Cloud Quorum.

**Feedback:** all input, suggestions and other evaluative information that You derive from the Cloud Quorum.

**Global-Active Device Cloud Quorum (Cloud Quorum):** virtual machine image containing an operating system and quorum setup software.

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