



**ORANGE COUNTY**

**AUDITOR-CONTROLLER**

**CONTRACT WITH**

**CGI TECHNOLOGIES AND SOLUTIONS INC.**

**FOR**

**CAPS+ FS, HR, & BRASS/PERFORMANCE BUDGETING (PB)  
MAINTENANCE AND SUPPORT SERVICES**

---

**CONTRACT #  
MA-003-11012413  
AMENDMENT SEVEN**

**Amendment No. 7**  
**to**  
**Contract MA-003-11012413**  
**For CAPS+FS, HR, & Brass/Performance Budgeting (PB)**  
**Annual Maintenance and Support**  
**between**  
**Orange County Auditor-Controller**  
**and**  
**CGI Technologies and Solutions Inc.**

This Amendment (“Amendment”) to Contract MA-003-11012413 for CAPS+ FS, CAPS+ HR and Brass/Performance Budgeting (PB) Maintenance and Support Services (“Contract”) is made and entered into upon execution of all necessary signatures by and between Orange County Auditor-Controller, a political subdivision of the State of California (“County”) and CGI Technologies and Solutions Inc. (“Contractor” or “CGI”).

WHEREAS, County and Contractor executed the Contract effective July 1, 2011 through June 30, 2021; and

WHEREAS, County and Contractor subsequently executed a separate contract (MA-003-13012150) for Professional Services, Brass to Performance Budgeting Upgrade, effective June 25, 2013, to add additional Software and Bundled Software Products, and upgrade certain Bundled Software Products; and

WHEREAS, County and Contractor executed Amendment No. 1 to the Contract, effective June 4, 2014, to amend the services provided thereunder in light of upgrades to the software provided by the Contractor; and

WHEREAS, on October 6, 2015, through Contract MA-003-16010046, County and Contractor amended and restated the County’s perpetual, non-exclusive license, which was included as Attachment D to MA-003-16010046 (the “Proprietary Software License Agreement”), to use the software that was the subject of the prior agreements between the County and the Contractor and amendments thereto, including Contract N1000009062, Contract N1000010903, Contract MA-003-13012150, and Proprietary Software License Agreement dated June 25, 2013 (the “Software”); and

WHEREAS, on October 6, 2015, County and Contractor executed Amendment No. 2 to purchase additional maintenance and support services for new and upgraded Software that the County had acquired from the Contractor pursuant to contract MA-003-16010046; and

WHEREAS, on October 2, 2018, County and Contractor executed Amendment No. 3 to amend and restate the Proprietary Software License Agreement for the purpose of exchanging licensing Convey 1099 Bundled Software Product for CGI Advantage 1099 software at no additional cost to County; and

WHEREAS, County and Contractor have entered into Contract MA-003-20010753 for Professional Services, Advantage PB Upgrade, pursuant to which Contractor delivered the Advantage Performance Budgeting (PB) Upgrade to the County; and

WHEREAS, on January 14, 2020, County and Contractor executed Amendment No. 4 to amend the Contract to reflect that the Software that Contractor delivered to the County pursuant to MA-003-20010753 is subject to the terms and conditions of the Proprietary Software License Agreement, and to upgrade and purchase certain Bundled Software Products and purchase additional CGI Advantage Software; and

WHEREAS, on October 22, 2020, County and Contractor executed Amendment No. 5 to correct the maintenance fee table in Article 24 and to include the cost for a one-time License Fee of \$1,644.46; and

WHEREAS, on May 27, 2021, County and Contractor executed Amendment No. 6 to extend the Contract's expiration date from June 30, 2021, to June 30, 2024, to cancel the software licenses no longer needed by the County after June 30, 2021, and to remove the costs associated with the cancelled software licenses.

WHEREAS, County and Contractor desire to amend the Contract through this Amendment No. 7 to: (i) extend the Contract's expiration date from June 30, 2024 to June 30, 2027; (ii) include Extended Maintenance Support (definition below); and (iii) update the County's Bundled Software Products.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, receipt of which is hereby acknowledged, County and Contractor agree as follows:

- 
1. **Article 24 entitled "Payment – Invoicing Instructions"** of the Contract, as amended, on pages 15 of 25 and 16 of 25, shall be replaced in its entirety with the following terms:

**24. Payment – Invoicing Instructions:** The total amount of this Contract shall not exceed \$21,113,836.89.

The Contractor will provide a two-part invoice on the Contractor's letterhead for maintenance services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1, above
3. Name and telephone number of contract for questions concerning invoice
4. Contractor's Federal ID number
5. Contract Agreement number (MA-003-11012413)
6. Date of order
7. Product/service description, quantity, and prices
8. Sales tax, if applicable
9. Freight/delivery charges, if applicable
10. Total

Payment shall be payable upon submission of invoice. Total Contract amount is a fixed fee amount in accordance with the schedule below. Payment will be net 30 days after receipt of invoice in a format acceptable to the County and verified and approved by the Auditor-Controller and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. Payment made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

No later than 60 days prior to the end of the sixteenth (16) year maintenance period on June 30, 2027, the Parties upon mutual agreement, may extend the Contract for two (2) additional one (1) year terms through another amendment to the Contract.

The total Contract amount is a fixed fee payable by Maintenance Period in accordance with the following schedule:

Maintenance Period	Fin/info/ Third Party	HR/Third Party	BRASS/PB/ Third Party	Cancel InfoAdv Per Amendment 6	Cancel Business Objects Per Amendment 6	Total
July 2011 - June 2012	\$429,215.70	\$435,522.18	\$124,260.00	-	-	\$988,997.88
July 2012 - June 2013	\$442,092.17	\$448,587.85	\$130,800.00	-	-	\$1,021,480.02
July 2013 - June 2014	\$455,354.94	\$462,045.48	\$130,800.00	-	-	\$1,048,200.42
July 2014 - June 2015	\$469,015.58	\$475,906.85	\$173,613.24	-	-	\$1,118,535.67
July 2015 - June 2016	\$487,107.71	\$490,184.05	\$178,821.65	-	-	\$1,156,113.41
July 2016 - June 2017	\$502,549.41	\$504,889.57	\$184,186.29	-	-	\$1,191,625.27
July 2017 - June 2018	\$517,625.89	\$520,036.26	\$189,711.88	-	-	\$1,227,374.03
July 2018 - June 2019	\$533,154.67	\$535,637.35	\$195,403.24	-	-	\$1,264,195.26
July 2019 - June 2020	\$549,149.32	\$551,706.47	\$220,691.86	-	-	\$1,321,547.65
July 2020 - June 2021	\$565,623.80	\$568,257.66	\$221,160.82*	-	-	\$1,355,042.28
Maintenance Period	Fin/Info/ Third Party	HR/Third Party	PB/Third Party	Cancel InfoAdv Per Amendment 6	Cancel Business Objects Per Amendment 6	Total
July 2021 - June 2022	\$565,623.80	\$568,257.66	\$219,516.36	-\$64,603.15	-\$47,775.06	\$1,241,019.61
July 2022 - June 2023	\$565,623.80	\$568,257.66	\$219,516.36	-\$64,603.15	-\$47,775.06	\$1,241,019.61
July 2023 - June 2024	\$565,623.80	\$568,257.66	\$219,516.36	-\$64,603.15	-\$47,775.06	\$1,241,019.61
<b>Total</b>	<b>\$6,647,760.59</b>	<b>\$6,697,546.70</b>	<b>\$2,407,998.06</b>	<b>-\$193,809.45</b>	<b>-\$143,325.18</b>	<b>\$15,416,170.72</b>

**Added in Amendment 7:**

Maintenance Period**	Fin/Info/ Third Party	HR/Third Party	PB/Third Party	Total
July 2024 - June 2025	\$764,447.35	\$768,399.67	\$274,501.49	<b>\$1,807,348.51</b>
July 2025 - June 2026	\$802,669.72	\$806,819.65	\$288,226.56	<b>\$1,897,715.93</b>
July 2026 - June 2027	\$842,803.20	\$847,160.63	\$302,637.89	<b>\$1,992,601.72</b>
<b>Total</b>	<b>\$2,409,920.27</b>	<b>\$2,422,379.95</b>	<b>\$865,365.94</b>	<b>\$5,697,666.16</b>

**Prior Total**

\$15,416,170.72
-----------------

**New Grand Total**

<b>\$21,113,836.88</b>
------------------------

\*The one-time license fee set forth in Amendment 5 of Exhibit A to Attachment E, as amended, of \$1,644.46 is included in these charges.

\*\*The above fees starting July 2024 include Extended Maintenance Support.

- 
- Attachment A (“Scope of Work”)** shall be revised as indicated in the amended Attachment A (attached hereto).
  - Extended Maintenance Support** – is hereby added to the Contract and shall be defined as follows:

*“Extended Maintenance Support” means the maintenance services provided to clients operating a version of the CGI Advantage® Software or Third Party Software Bundle that are on Tier 2 or Tier 3 level of maintenance support as provided in CGI’s Advantage Support Policy on the CGI Solution Support Center.*

- 
4. **Attachment E, Exhibit A** of Amendment No. 6 shall be revised as indicated in attached amended Attachment E, Exhibit A.

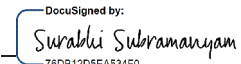
Except as specifically amended herein, all other terms and conditions of the Contract shall remain unchanged, in full force and effect.

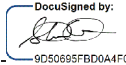
*[Signature page follows.]*

**SIGNATURES**

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**Contractor\*: CGI TECHNOLOGIES AND SOLUTIONS INC.**

surabhi Subramanyam <hr/> Print Name  Signature	Senior Vice President <hr/> Title 5/8/2024 <hr/> Date
---	--

Steve Perron <hr/> Print Name  Signature	Chief Financial Officer <hr/> Title 5/8/2024 <hr/> Date
--	--

\* Unless otherwise demonstrated that the person(s) executing this Contract on behalf of Contractor has the requisite authority to legally obligate and bind Contractor, if the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President. The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

\*\*\*\*\*

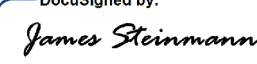
**COUNTY OF ORANGE, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA:**

<hr/> Print Name <hr/> Signature	<hr/> Title <hr/> Date
-------------------------------------	---------------------------

Approved by Board of Supervisors on: \_\_\_\_\_ Date \_\_\_\_\_

**County of Orange, Office of the County Counsel**

APPROVED AS TO FORM:

 Deputy County Counsel	Date 5/8/2024
--	---------------

## **Amended Attachment A Scope of Work**

### **Background History of Services:**

Maintenance is performed to support all software licensed to the County for CAPS. CAPS is used to support the County's Financial Purchasing, and Human Resources Information Systems. With this Maintenance Services Contract, Contractor will assist County in the use of the Software described in Section 4 below, and provide County with all Enhancements to the CGI Advantage Software. This Contract is limited to the Software listed below for the period specified in Section 1, Maintenance Period.

1. **Maintenance Period.** The Maintenance period is the period beginning July 1, 2011 and ending on June 30, 2027.

2. **Maintenance Fee.** The total maintenance fee shall be

Advantage 3 (July 1, 2011 – June 30, 2027) **\$21,113,836.88.**

Payable annually as stated in Article 24, Payment – Invoicing instructions of the Proprietary Software Maintenance Agreement. This cost may be adjusted if software is added or deleted during the term.

County may purchase maintenance services for the Software for subsequent Maintenance periods in which CGI is offering maintenance services at Contractor's then current rates.

3. **Maintenance**

A. Contractor's Standard Support and Maintenance Services provide the County with the required ongoing enhancements to the Software to address functional and technical changes. Specifically, the Standard Support and Maintenance Services provide these major components:

1. Internet access through our secure web site, **CGI Solutions Support Center (<https://sc.cgi.com/solutionssupport/>)**, to a variety of 24x7 support materials.
2. Help Desk Support with direct phone, email, and web support on the baseline products through the CGI County Support Center. Standard hours of operation are 8 am EST to 9 pm EST Monday-Friday. CGI can be reached at 800-321-0267 via phone and **<https://sc.cgi.com/solutionssupport/>**, via our online support website.
3. Software incident corrections to the Software.
4. Software releases are provided periodically to address technical and functional compatibility with system software and ongoing regulatory changes and changes to business practices. Documentation updates are provided as part of each release. Additional Software incident corrections will be included in releases, as dictated by testing requirements and the magnitude of the required change.
5. Enhancements to the Software are provided in new releases of the CGI Advantage solution.
6. Membership to the CGI Advantage User Group. Membership provides the option to participate in various user group activities such as the annual CGI Forum, regional User Group meetings and voting for the User Group Steering Committee that works closely with CGI on a variety of County issues and concerns. Membership also

provides each site the option of proposing a candidate for election to the User Group Steering Committee.

Contractor will support the following features of the CGI Advantage solution:

1. The system components that the County is currently contracted for and is paying maintenance on;
2. The third-party software component releases that are compatible with the currently supported version of the CGI Advantage solution;
3. The documented features of the CGI Advantage Software, as listed on the delivered on-line documentation and help files;
4. All standard baseline features of the system, including configuration tables (e.g. Required Elements) of the CGI Advantage Software, that DO NOT include infrastructure or other programming code changes. Any County-specific configuration tables will not be supported.
5. Prioritizations of all issues and software incidents according to the following schedule:

<b>Severity</b>	<b>Definition</b>
1 - Critical	A problem with CGI supported Software causing critical impact to the County's business operation. No workaround is immediately available and work using the Software can not continue.
2 - Serious	A problem with CGI supported Software causing significant impact to the County's business operation. A workaround is available but is unacceptable on a long term basis.
3 - Moderate	A problem with CGI supported Software that impairs some functionality, but a practical workaround exists.
4 - Minor	A problem that does not affect any functionality of the Software.

- B. At the expiration of the initial Maintenance Period stated in this Agreement, County may buy maintenance services for the Software for subsequent Maintenance Periods in which Contractor is offering maintenance services, at Contractor's then current prices. County may obtain such maintenance services only if (i) County has paid the maintenance fee for all prior Maintenance Periods; and (ii) County incorporates into the Software all releases, corrections, and Enhancements to the Software that Contractor has made available to County, no less than two (2) Supported Releases prior to the current release. "Supported Release" means a release of the CGI Advantage Software for which CGI is actively providing fixes pursuant to the CGI Advantage Software Support Policy.
- C. All Enhancements and corrections to the Software and Documentation provided by Contractor pursuant to this Contract will become a part of the Software and Documentation for the purposes of the License Agreement at the time they are provided to County and are hereby licensed to County as part of the Software and Documentation pursuant to all of the terms and conditions of the License Agreement.
4. **Software.** The maintenance services under this Contract are provided with respect to the software licensed pursuant to the Proprietary Software License Agreement attached in Attachment E to this Contract, including Exhibits A, A.1, A.2, A.3, and A.4 to Attachment E, as amended.



5. **Proprietary Software License Agreement.** All updates, upgrades or enhancements provided to the Software that have been provided under this Contract shall be subject to the perpetual, non-exclusive license agreements related to the Software, including but not limited to the Proprietary Software License Agreement attached as Attachment E to this Contract, including Exhibits A, A.1, A.2, A.3, and A.4 to Attachment E.

**Attachment E. Exhibit A**  
**CGI Technologies and Solutions Inc.**  
**Proprietary Software License Agreement**

1. **Licensed Software.** CGI is licensing to County the following computer software components, comprising the Software:

CGI Advantage® Financial Management System including:

CGI Advantage Financial Management Base System  
Project and Grants Management (now part of CGI Advantage Financial Management Base System)  
CGI Advantage Treasury Accounting  
CGI Advantage Inventory Management  
CGI Advantage Asset Management  
CGI Advantage 1099 Reporting

CGI Advantage® Human Resources Management System including:

CGI Advantage Human Resources Management Base System  
Position Control (now part of CGI Advantage Human Resources Management Base System)  
Benefits Administration (now part of CGI Advantage Human Resources Management Base System)  
Payroll Administration & Payroll Accounting Management (now part of CGI Advantage Human Resources Management Base System)

CGI Advantage® Procurement Professional

CGI Advantage® Performance Budgeting System including:

Salary and Benefits Forecasting (now part of CGI Advantage Performance Budgeting System)

CGI infoAdvantage® - *Maintenance Services cancelled as of July 1, 2021 (see Amendment 6)*

CGI OnBase Adapter *(for OnBase v15 and CGI Advantage Financial Management 3.10.0.1 and CGI Advantage Human Resources Management HRM 3.11 versions)*

County may use the source code for CGI Advantage components (exclusive of Bundled Software Products) only to maintain and enhance the Software and for no other purpose. County may modify Software and Documentation and merge into other material to form derivative work for County's own use. Any portion of the Software or Documentation included in such a derivative work will continue to be subject to all terms of this Contract. Upon termination of the license for the Software, County will deliver to Contractor or destroy any portion of the Software or Documentation contained in any derivative works.

2. **Licensed Documentation.** The Specifications for the Software are as set forth in the documentation, which is available for download on the CGI website and which is collectively referred to in this Agreement as the "Documentation":

CGI will provide County access to its Documentation on the CGI website, <https://sc.cgi.com/solutionssupport/>.

Documentation 3rd third Party Software is available on the applicable website.

3. **License Type.** The Software is licensed to County on the following basis:

**Site License.** County is permitted to use the Software at the computer facility or facilities listed below with the exception of CGI infoAdvantage which is a server license. In the event of the failure of the computers at the listed location(s), County may use the Software at a back-up computer facility in the same country until operations at the primary facility have been restored.

1400 S. Grand Ave Santa Ana, CA 92705

**Server License.** County is permitted to use the Software on 6 CPU server(s).

Should County desire to use the Software for additional named users or at additional facilities, as the case may be, County may purchase additional licenses at CGI's then-current prices.

4. **Work That May Be Processed.** County may only use the Software to process County's own work. COUNTY MAY ONLY USE THE CGI infoADVANTAGE SOFTWARE WITH CGI ADVANTAGE DATABASES.
5. **License Fees.** The licenses specified in Section 1 and Section 6 of this Exhibit A have been granted to County for License Fees previously paid.
6. **Bundled Software Products.** Included in the license fees paid by the County are the license fees for certain bundled software products (the "Bundled Software Products") required to be used in connection with CGI Advantage Software. CGI is providing the following Bundled Software Products to County:

Actian DataConnect 11 Flex Batch Engine, Production (Subscription) – 6 Engine  
 Actian DataConnect 11 Flex Batch Engine, Dev/Test (Subscription) – 1 Engine  
 (Dev/Test Subscription includes 5 named user developer licenses to be used with the Dev/Test engine)  
 Actian DataConnect 11 Flex Developer – 4 Named User Licenses  
 [Governed by Terms in Exhibit A.2 in Amendment 3]  
*Note:* Maintenance Services for the Actian software listed above will continue through August 31, 2024.

Adobe Central Pro – CPU & 10 Print locations – 2 [Maintenance services cancelled as of July 1, 2016]

Adobe Output Designer - 4 Named Users [Maintenance services cancelled as of July 1, 2016]

Adobe RoboHelp - 1 License

Business Object Dashboard & Performance Manager - 25 NUL - [Maintenance Services cancelled in June 2012]

Business Objects Desktop Intelligence (Thick Client) – 31 User license [Maintenance Services cancelled as of July 1, 2021 with this amendment]

Business Objects Enterprise Premium & WebIntelligence - 8 CPU restricted licenses [Maintenance Services reduced to 2 CPU licenses as of July 1, 2021 with this amendment]

Business Objects Professional & WebIntelligence - 8 CPU restricted licenses [Maintenance Services cancelled as of July 1, 2021 with this amendment]

Convey 1099 - 5 Users, 20,000 Transactions [Cancelled with Amendment No. 3]

Delta XML - 1 Site License

Eclipse BIRT Engine – Production – 2-Core  
 Eclipse BIRT Engine – Non Production – 2-Core  
*Unlimited copies of BIRT Designer are included with BIRT Modules*

HighSoft – Highcharts – 2 Server Licenses

IBM WebSphere Application Server Network Deployment (ND) - 4100 Processor Value Units (PVUs)  
 IBM Portal Express Server - 200  
 IBM WebSphere Application Server Network Deployment Sub-Capacity - 420 PVU  
*[Maintenance services - cancelled in October 2020]*  
*[Governed by terms in Exhibit A.1 in Amendment 3]*

Micro Focus SVR for COBOL - < 25,000 employees – 1 License  
 Micro Focus SVR for COBOL Test - < 25,000 employees – 1 License  
 Micro Focus Server Express Developer - 1 Named User License

RedHat JBoss Enterprise Application Platform with Management Premium – Production – 2-core  
 RedHat JBoss Enterprise Application Platform with Management Premium – Non Production – 2-core  
 RedHat JBoss with Management – Premium – Production – 7 core  
 RedHat JBoss with Management – Premium – Non-Production – 9 core  
*[Governed by Terms in Exhibit A.3 in Amendment 3]*

Redis Production – 1 Shared  
 Redis Non-Production – 1 Shared

SAP Crystal Reports 2008 SP3 - 16 Licenses - *[Maintenance Services cancelled as of July 1, 2021]*  
 SAP Crystal Reports 2008 SP3 - 2 Licenses – *[Maintenance services cancelled June 2014]*

Versata Logic Studio - 6 Named user  
 Versata Logic Server License - 1 Site license

#### **Bundled Products Upgraded in this Amendment 7:**

Hitachi Pentaho – 1 License Unlimited Installs

*[County's use of Hitachi Pentaho is governed by the Hitachi Pentaho End User License Agreement (EULA) attached hereto as Exhibit A.4 to Attachment E.]*

All rights of County in and to the Bundled Software Products referenced in this Section 6 of Exhibit A to this Attachment will be governed by the terms and conditions of this Agreement, unless otherwise specified above. In addition, the Software may contain or require the use of open source products; any such products incorporated in, or used with, the Software are subject to the applicable open source license agreement. Violation by County of the additional supplier terms and conditions attached to this Exhibit A may result in termination of County's right to use the applicable Third Party Products under this Agreement. Such termination, or changes in the Software which CGI may

make from time to time, may make it necessary for County to acquire, at its own expense, updated versions of the Bundled Software Products or alternative products designated by CGI. CGI does not itself give or make any warranty or indemnification of any kind with respect to the Bundled Software Products.

**Exhibit A.4 to Attachment E****Hitachi Pentaho End User License Agreement (EULA)**

*The following terms and conditions shall apply to Hitachi Pentaho's software and shall supersede any other terms and conditions in the Agreement concerning the topics addressed herein.*

1. **Definitions.**
  - A. **"Agreement"** means Client's agreement with CGI Technologies and Solutions Inc for the CGI Advantage<sup>®</sup> software.
  - B. **"Client"** means the County of Orange, a political subdivision of the State of California, on behalf of its Auditor-Controller.
  - C. **"Confidential Information"** means all information of a confidential or proprietary nature concerning the disclosing party's business which information is either marked as "confidential" or "proprietary" or that a reasonable person would understand to be confidential or proprietary given the nature of the information and the circumstances of the disclosure. Confidential Information also may include proprietary information of third parties who have granted licenses to or have contractual relationships with the disclosing party. In any event, Hitachi's Confidential Information includes all pricing information, know-how, trade secrets, development roadmaps for the Product, Documentation, Product Materials, license keys and all other technical and commercial information and software (excluding Third Party Software) included in or provided with the Product.
  - D. **"Documentation"** means the Hitachi Pentaho documentation as updated by Hitachi from time to time on <http://help.pentaho.com> or any other successor website, address or sources.
  - E. **"End User License Agreement"** or **"EULA"** means the Hitachi Pentaho terms and conditions provided herein.
  - F. **"Product"** means any and all of Hitachi Pentaho's proprietary data integration and business analytics software platform, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto, as well as any software provided by Hitachi that has been modified in any way by Hitachi at the request of a client.
  - G. **"Product Materials"** means marketing and other informational materials concerning the Product.
  - H. **"Third Party Software"** means any additional third party software components, such as open source software, delivered with the Product.
2. **On-Premise Deployment License.** Hitachi grants Client a non-exclusive, non-transferable term license, commencing on the effective date agreed to by Client and CGI, to the Product to install on its premises for use with Client's deployment of CGI Advantage<sup>®</sup> for its own internal business purposes for the duration of the Agreement in accordance with the terms and conditions of the Agreement and this EULA. The Product shall be deemed accepted by Client upon delivery of the first license key for the Product.
3. **Third Party Software.** Client acknowledges that the Product may be delivered with Third Party Software components including open source software. Each component of Third Party Software is licensed and distributed to Client under the terms of the applicable Third Party Software license terms. A list of the Third-Party Software and the applicable licenses is provided with the Product and/or set forth in the Documentation.
4. **Restrictions.** The Product may be used only for Client's own lawful business purposes. In its use of the Product, Client agrees: (i) it will not reverse engineer, reverse compile or disassemble any object code of the Product, except as allowed by applicable law; (ii) it will not copy, modify, distribute, rent, lease, assign, transfer, sublicense, display or otherwise distribute or make the Product available to any third

party through a service bureau or otherwise; (iii) it will not use the Product on a standalone basis; (iv) it will comply fully with all laws and regulations applicable to its use of the Product, the Documentation, and Product Materials including export control laws as applicable; (v) it will prohibit redistribution of the Product; (vi) it will not remove any copyright or trademark notices included with the Product at any time for any reason; and (vii) it will not use the Hitachi logos or marks in a manner that Hitachi reasonably believes dilutes, tarnishes or blurs the value of such logos or marks. Client acknowledges that its use of Hitachi logos and marks will not create in Client, nor will Client represent it has, any right, title or interest in or to Hitachi logos or marks. Client will be responsible for its user's compliance with this EULA and liable for its user's breach thereof.

5. Audit Rights. Client agrees that Hitachi, upon at least thirty (30) days' prior written notice, may at its own cost and expense directly or through a third party, during business hours, inspect and verify Client's compliance with this EULA.
6. Confidentiality. Each party acknowledges that it acquires the right to use the other party's Confidential Information only under the terms and conditions of this EULA and does not acquire any rights of ownership or title in the other party's Confidential Information. Each party will hold in confidence any Confidential Information received by it from the other party and will protect the confidentiality of such with the same degree of care that it exercises with respect to its own confidential information of a similar nature, but in no event less than reasonable care. Each party will use the other party's Confidential Information solely for the purposes of its performance of the activities contemplated by this Agreement. Except as required by any applicable law or court order, each party will disclose Confidential Information only to its (and in the case of Hitachi, Hitachi's and its affiliates') employees, representatives, agents and authorized contractors who have a need to know such information for the purposes of this EULA and who are subject to confidentiality obligations no less restrictive than those contained herein. Prior to any disclosure of Hitachi's Confidential Information, Client shall first notify and provide Hitachi an opportunity to prevent such disclosure. Client shall be permitted to disclose to its end users: (a) the Documentation; and (b) the Product Materials. Each party agrees to give notice to the other party immediately after learning of or having reason to suspect a breach of any of the restrictions set forth in this Section.
7. Ownership. Hitachi is and will remain the sole and exclusive owner of all right, title, and interest in and to the Product, including any and all works based on the Product created by Hitachi hereunder or otherwise, the Documentation, Product Materials, and all underlying Intellectual Property Rights ("**Hitachi IPR**") and Client acquires no ownership rights to any of the Hitachi IPR. "Intellectual Property Rights", as used herein, means all intellectual property rights worldwide arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired, including all: (i) patent rights; (ii) rights associated with works of authorship including moral rights, copyrights and mask work rights; (iii) rights relating to the protection of trade secrets and confidential information; (iv) trademarks, service marks, trade dress and trade names; and (v) any right analogous to those set forth in this EULA and any other proprietary rights relating to intangible property.
8. Indemnification.
  - A. Infringement. Subject to Section 8.C, Hitachi will defend, indemnify and hold Client harmless in the event of any third-party action or proceeding brought against Client arising out of a claim that the use of the Product as licensed in this EULA infringes any copyright, moral right, trade secret, trade or service mark, or US patent. If Client's use of the Product under the terms of this EULA is, or in Hitachi's opinion is likely to be, enjoined due to the type of infringement or misappropriation specified in this Section, then Hitachi may, at its sole option and expense, either: (i) procure for Client the right to continue using such Product under the terms of the Agreement and this EULA; or (ii) replace or modify such Product so that they are non-infringing and substantially equivalent in function to the infringing component of the Product; or (iii), if the foregoing options are not accomplished despite the reasonable efforts of Hitachi, then Hitachi may terminate this EULA and Client would be entitled to receive a pro-rated refund for the pre-paid fees for the unexpired period of the license. HITACHI will pay any and all costs, damages, and expenses (including but not

limited to reasonable attorneys' fees) finally awarded against Client by a court of competent jurisdiction or agreed to by Hitachi in settlement of such claim, in any such action or proceeding attributable to any such claim. THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 8 ARE HITACHI'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH THE PRODUCT.

- B. Indemnity Exclusions. HITACHI will have no obligations under Section 8 with respect to infringement or misappropriation arising from: (i) any claim that relates to open source software or freeware technology or derivatives or other adaptations thereof that is not embedded into the Product; (ii) modifications to the Product that were not performed or authorized in writing by Hitachi; (iii) the failure by Client to use the most recent version of the Product if doing so would have avoided the infringement claim; or (iv) the combination, use and operation of the Product with products not licensed by Hitachi such as any third party software or any hardware, operating software or data sources that the Product is not designed to operate with as set forth in the Documentation in a manner that violates this EULA.
- C. Indemnity Procedures. A party entitled to indemnification under this Agreement (the "Indemnified Party") will tender each claim to the other party (the "Indemnifying Party") by promptly notifying the Indemnifying Party after first receiving notice of the claim (or potential claim). The Indemnifying Party will: (i) promptly assume the management and defense of the claim at its own expense, and will pay all costs associated with the defense, including reasonable attorneys' fees; and (ii) have full control over such defense, including any settlement discussions or agreement with the party making the infringement claim. The Indemnified Party shall, at the Indemnifying Party's cost, reasonably co-operate with the Indemnifying Party in the defense of such a claim.
9. Warranty. Subject to the terms of this Section 9, Hitachi warrants to Client that for a period of thirty (30) days following the date the preliminary or renewal license key for the Product is issued by Hitachi (the "Product Warranty Period"), the Product will substantially conform to the applicable Documentation. If, during the Product Warranty Period, Client notifies Hitachi in writing of a breach of the foregoing warranty, Hitachi will, at its option, correct such non-conformance in the applicable Product as soon as reasonably possible. If Hitachi is not able to correct such non-conformance within a reasonable period, then Client will be entitled to terminate the applicable order and receive a refund for any amounts paid in advance that are unused in connection with the Product. Any correction provided hereunder may take the form of a fix or workaround. This warranty shall not apply to the extent any non-conformance is the result of a failure of any hardware or software (including third party software) not provided or licensed hereunder. The remedies provided herein are Client's sole and exclusive remedies, and Hitachi's sole and exclusive obligations and liability, for any breach of such warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 9, THE PRODUCT, DOCUMENTATION, AND PRODUCT MATERIALS ARE PROVIDED TO CLIENT "AS IS" AND HITACHI MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, ACCURACY OF DATA, INTEROPERABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HITACHI DOES NOT GUARANTEE OR WARRANT THAT THE USE OF THE PRODUCT, DOCUMENTATION, OR PRODUCT MATERIALS, WILL BE UNINTERRUPTED OR ERROR FREE.
10. Limitation of Liability.
- A. Exclusion of Certain Damages. EXCEPT AS PROVIDED IN THIS SECTION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER IN CONNECTION WITH THIS EULA OR ANY ORDERS FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES ("INDIRECT DAMAGES"), INCLUDING ANY LOSS OF PROFIT, REVENUE, INCOME



OR DATA, HOWEVER ARISING AND WHETHER IN AN ACTION IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE) OR BASED ON A BREACH OF ANY WARRANTY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PROVISIONS OF THIS SECTION WILL NOT APPLY TO ANY BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 6 (CONFIDENTIALITY), OR ANY USE OF HITACHI'S PRODUCT OR INTELLECTUAL PROPERTY OUTSIDE THE SCOPE OF THIS EULA.

- B. Liability Cap. EXCEPT AS PROVIDED IN THIS SECTION, HITACHI'S AGGREGATE CUMULATIVE LIABILITY FOR CLAIMS RELATING TO THIS EULA AND ALL ORDERS, WHETHER FOR BREACH OR IN TORT, WILL BE LIMITED TO THE AMOUNTS PAID AND PAYABLE BY CLIENT UNDER THE AGREEMENT AND ALL ORDERS DURING THE THIRTY-SIX (36) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM, UP TO A MAXIMUM OF \$1,000,000. THE TERMS OF THIS SECTION APPLY REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER BASED ON CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STATUTE OR OTHER LEGAL THEORY. THE LIMITATIONS IN THIS SECTION WILL NOT APPLY TO: (A) ANY BREACH OF HITACHI'S CONFIDENTIALITY OBLIGATIONS; OR (B) HITACHI'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 8 (INDEMNIFICATION).

11. Termination.

- A. For Convenience. Notwithstanding anything to the contrary in this EULA, Client may terminate this EULA and associated order for the Product(s) for its convenience by giving CGI ninety (90) day written notice, although that in all cases Client shall retain the obligation to pay the annual fees invoiced through the full term of the order even if terminated for convenience.
- B. For Breach. This EULA, and any associated order under the Agreement for Hitachi Product(s), may be terminated by Hitachi for cause immediately if Client materially breaches any provision of this EULA and fails to cure such breach within thirty (30) days of written notice, or shorter/longer period as mutually agreed in writing by the parties, describing the breach.
- C. Additional Effects of Termination. Upon the effective date of any termination or expiration of this EULA, or associated order under the Agreement, by either party: (a) all rights and licenses granted to Client hereunder will terminate and Client shall not seek to continue to use the Product outside of the scope of this Agreement, unless otherwise agreed in writing between the parties; and (b) Client will immediately destroy or return to CGI or Hitachi all Confidential Information in its possession, custody or control in whichever form held (including all copies or embodiments of the Confidential Information); (c) will cease using any Hitachi logos, trademarks, service marks and other designations of Hitachi. On termination or expiration of the Agreement, all existing order(s) shall terminate unless otherwise agreed between the parties.