

PURCHASE ORDER TERMS AND CONDITIONS

A. GENERAL PROVISIONS.

1. **AGREEMENT DOCUMENTS.** These terms and conditions (“**Terms**”) and a Fiserv issued purchase order, including any statement of work which may be executed by the parties (collectively, a “**PO**”), are expressly limited to, and expressly made conditional on, Vendor’s acceptance of the Terms of the Agreement. The PO shall govern the purchase by Fiserv Solutions, LLC and/or any of its affiliates (“**Fiserv**”) of all software (including all updates, revisions, error corrections, and subsequent versions thereof, “**Software**”) or materials, equipment, and/or hardware (collectively, “**Hardware**”), as specified in the PO (collectively “**Products**”), or services or deliverables described in the PO (collectively, “**Services**”). These Terms and any PO(s) (collectively, the “**Agreement**”) constitutes the entire agreement between Fiserv and the party listed on the PO (“**Vendor**”) with respect to the Products and/or Services described therein. The Agreement is the sole and exclusive agreement between Vendor and Fiserv for the Products and Services in the PO, and no other document, including but not limited to Vendor’s proposal or quotation, will form a part of the Agreement, unless specifically agreed to in writing by Fiserv. Terms contained in Vendor’s response to, or acknowledgement or acceptance of the Agreement, if any, that are additional to, or different from, these Terms (which terms would constitute a counter-offer by Vendor) are specifically rejected by Fiserv. Fiserv’s offer to purchase, as provided in the Agreement, may not be modified by Vendor counter-offers. Notwithstanding the foregoing, if the Agreement is deemed an acceptance by Fiserv of a Vendor offer or counter-offer, then such acceptance is expressly made conditional on Vendor’s assent to all of these Terms, including those that are additional to, or different from, the terms of Vendor’s offer or counter-offer. All shrink-wrap, click-wrap, browse-wrap, and similar terms accompanying any Software, and any online terms of use, terms of service, or similar terms relating to Services, are expressly rejected by Fiserv and are null and void. These Terms will prevail over all such other terms and conditions. These Terms are also available at <https://www.fiserv.com/ext/Fiserv-Purchase-Order-Terms-and-Conditions.pdf>. Vendor’s delivery of any Products or Services specified in a PO constitutes acceptance of the Agreement.
2. **PRICES, TAXES, AND INVOICING.** If Vendor’s published prices for the Products or Services are reduced below the prices specified in the Agreement, Fiserv will be entitled to pay the lower price(s). Unless otherwise specified in the PO, Vendor must deliver the full quantity of Products, or complete the Services to the reasonable satisfaction of an authorized representative of Fiserv, before any payment will become due. Vendor shall invoice Fiserv on a monthly basis (or such other frequency as may be specified in a PO). Fiserv shall be responsible for all legally required sales and use taxes (“**Taxes**”), but in no event shall be liable for Taxes based on Vendor’s net or gross income, capital, property, or employees; Vendor shall specify all Taxes on each invoice, including the jurisdiction to which such Taxes will be remitted. Fiserv shall have the right to withhold from any payments due under the Agreement any Taxes which it is required to withhold by law. Vendor shall be responsible for promptly and properly remitting all Taxes paid by Fiserv. The PO is not valid unless prices for all Products and Services are specified therein. Payment terms shall be set forth in the PO, however, in no event shall Fiserv be obligated to pay sooner than 60 days after receipt of an accurate, correct and sufficiently detailed invoice. Fiserv may withhold payment if it, in good faith, disputes an invoice. Vendor shall invoice Fiserv no later than 180 days after delivery of the Products or Services, and Fiserv will have no obligation to make payment against any invoices submitted after such period.
3. **DELAY OR NONDELIVERY.** Time is of the essence for the Agreement. If, prior to shipment, Vendor finds that it cannot ship the Products or deliver the Services within the time specified in the PO or otherwise agreed upon by the parties in writing, Vendor will notify Fiserv immediately, and by the fastest means possible, of Vendor’s earliest shipping date (the “**Revised Shipping Date**”). Fiserv will then have the option, on ten (10) days’ notice to Vendor, to cancel all or any part of the PO and/or accept Vendor’s Revised Shipping Date, without prejudice to any other rights Fiserv may have.
4. **CONFIDENTIALITY.** Vendor acknowledges that it may gain access to or otherwise learn Confidential Information (as hereinafter defined). Vendor agrees it will use the Confidential Information only for purposes of performing its obligations under the Agreement (the “**Permitted**

Purpose”) and shall not transfer or otherwise disclose the Confidential Information to any third party except as expressly permitted by the Agreement. Vendor shall: (a) give access to Confidential Information solely to those of its employees and approved subcontractors with a need to know such information for the Permitted Purpose; and (b) take the same security precautions to protect against disclosure or unauthorized use of Confidential Information that Vendor takes with its own confidential information but, in no event, shall Vendor apply less than a reasonable standard of care to prevent such disclosure or unauthorized use. “**Confidential Information**” means any and all information relating to Fiserv, any of its affiliates, and/or any of their respective clients that may be disclosed to or accessed by Vendor, including, without limitation: equipment and business specifications; business records or data; trade secrets, planning or policy matters; business strategies; internal policies; and procedures; matters subject to attorney-client privilege; financial or accounting information; the existence or terms of the Agreement or any other agreements or communications between Vendor and Fiserv; personally identifiable information, defined as information that can be identified to a particular person without unreasonable effort, such as names and social security numbers (“**PII**”); data, reports, forecasts and records; and any analyses, compilations, studies or other documents, whether prepared by Vendor or Fiserv, which contain or otherwise reflect Confidential Information. Vendor shall not use Fiserv’s or any of its affiliates’ names on Vendor’s website or in advertisement, client list, or any other sales or marketing publication without the prior written consent of Fiserv.

5. **WARRANTIES.**

- (a) **Products Warranties.** Vendor expressly warrants and represents that all Products furnished under the Agreement shall: (i) conform to all manufacturer and other agreed upon specifications; (ii) will be new; and (iii) will be free from defects in material or workmanship. Vendor warrants that all Products will conform to any statements made on the containers or labels or advertisements for such Products, and that any Products will be adequately contained, packaged, marked, and labeled. Inspection, test, acceptance or use of the Products furnished hereunder shall not affect Vendor’s obligation under this warranty, and such warranties shall survive all such inspection, test, acceptance and use. Vendor’s warranty shall run to Fiserv, its affiliates, and their respective successors and assigns and, as applicable, their clients and users of products sold by Fiserv. Vendor agrees to replace or correct defects of any Products not conforming to the foregoing warranty promptly, without expense to Fiserv, when notified of such nonconformity by Fiserv, provided Fiserv elects to provide Vendor with the opportunity to do so. In the event of failure of Vendor to correct defects in or replace nonconforming Products or Services promptly, Fiserv may, in its discretion: (i) after reasonable notice to Vendor, make such corrections or replace such Products and Services and charge Vendor for the cost incurred by Fiserv in doing so; or (ii) terminate the PO and/or Agreement, in which case, Vendor shall refund to Fiserv any fees paid by Fiserv for such nonconforming Product(s) and any associated Services.
- (b) **Software Warranties.** In addition to, and without limiting the warranties set forth in subsection (a) above, Vendor expressly warrants and represents that: (i) all Software shall conform in all respects to all applicable documentation; and (ii) each of the Software, deliverables and materials furnished hereunder shall be delivered to Fiserv free of: (A) any instructions, devices or techniques installed by Vendor or its personnel that can, or are designed to, threaten, infect, assault, vandalize, defraud, disrupt, damage, disable, alter, inhibit or shut down the Software and/or Fiserv’s processing environment, including, but not limited to, other programs, data and libraries or otherwise prevent Fiserv from utilizing the Software as intended (“**Viruses**”); (B) any instructions or code which prevent or limit Fiserv’s use of any Software or deliverables or cause any Software or deliverable to cease functioning (“**Disabling Devices**”); or (C) any instructions or code which allow access to Fiserv’s computing systems without Fiserv’s knowledge and express written consent (“**Trap Doors**”).
- (c) **Services Warranties.** Vendor expressly warrants and represents that the Services (including all deliverables resulting therefrom) will: (i) be fully performed by qualified workers, experienced in performing

such Services and thoroughly trained with and knowledgeable in the design, function and use of any applicable Products; (ii) be fully performed in a diligent, high quality, professional manner in accordance with industry standards employed by those offering similar services; and (iii) conform to the provisions and specifications of the Agreement and the applicable PO. Vendor further warrants that it possesses or will obtain, as necessary, the professional, technical and administrative resources necessary to perform the Services.

- (d) **General Warranties.** Vendor expressly warrants and represents that: (i) it has the right to provide to the Services and Products to Fiserv; (ii) it is compliant and shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations applicable to its obligations hereunder; (iii) its performance of its obligations under this Agreement shall not violate any obligations it owes to any third party; (iv) it is validly existing and in good standing under the laws of the state of its incorporation; and (v) no approval, authorization, or consent is required to be obtained by it in order for it to enter into and perform its obligations under the Agreement. Without limiting clause (ii) in the foregoing sentence, Vendor agrees that it shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, gender, national origin, sexual orientation and gender identity. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color religion, gender, national origin, protected veteran status or disability.
- (e) **Warranty Disclaimer.** Except as otherwise set forth in these Terms, neither party makes any warranty with respect to the Products or Services provided or its performance under the Agreement, including without limitation, any implied warranty of merchantability or fitness for a particular purpose.
6. **TERMINATION.**
- (a) **For Convenience.** Fiserv reserves the right to terminate, without penalty, the Agreement or any PO for convenience upon written notice to Vendor. Vendor shall be paid for any Services performed through the date of termination, but no other fees or charges shall be due.
- (b) **For Cause.** Either party may terminate the Agreement in the event the other party breaches a material provision of the Agreement if the breaching party fails to cure such breach (if curable) within 30 days after receiving written notice thereof from the non-breaching party.
7. **PREMISES.** Vendor must comply with all reasonable policies and procedures communicated by Fiserv to Vendor concerning Vendor's conduct on Fiserv's premises.
8. **INDEMNITY.** Vendor will indemnify, defend and hold harmless Fiserv and its officers, directors, employees, agents, successors, clients and assigns from all claims, suits, and proceedings, and from the damages, liabilities, losses, costs, and expenses (including reasonable attorneys' fees) arising therefrom, based on or related to: (a) Vendor's breach of any representation, warranty or other obligation hereunder; (b) claims for any taxes, wages, or benefits brought by any of Vendor's employees or other personnel; or (c) any claim or suit for alleged infringement of any copyright, trademark, patent, trade secret or other intellectual property right resulting or arising from: (i) any Product delivered or Service performed under the Agreement; and (ii) Fiserv's use of any Product, provided such use is not in violation of the Agreement. Vendor shall not have the right, without Fiserv's prior written consent, to: (A) execute any agreement, document or pleading that names an indemnitee as a party; (B) make statements regarding any indemnitee; or (C) settle any claim that in any way assesses blame against any indemnitee or that provides a remedy other than the payment of money.
9. **ACCEPTANCE.** All Products and Services are at all times subject to Fiserv's inspection before acceptance by Fiserv. Fiserv shall have no less than 15 days to review and/or inspect the Products and Services after delivery. In the event Fiserv notifies Vendor that any Product or the Services are not in conformance with any of the warranties hereunder or are otherwise defective or unacceptable, Vendor shall, upon Fiserv's request, promptly and at Vendor's expense: (a) replace or repair such Product; and/or (b) re-perform such Services. If Vendor is unable to deliver a Product and perform the Services in conformance with the Agreement with a time period which is reasonably acceptable to Fiserv, Fiserv shall be entitled to a refund of the fees paid for such defective or

non-conforming Products and/or Services. Fiserv's receipt of delivery, payment, acceptance of Product, inspection, or failure to inspect will not relieve Vendor of any obligations, representations or warranties hereunder.

10. **ASSIGNMENT; SUBCONTRACTING.** Vendor may not assign the Agreement or any of its rights of obligations, by operation of law or otherwise, to any third party without Fiserv's prior written consent. Vendor may not subcontract any obligations hereunder without the prior written consent of Fiserv. In the event Fiserv consents, Vendor shall be responsible for all acts, omissions, and breaches of the Agreement by its subcontractor(s) to the same extent as if Vendor had committed such act, omission, or breach itself.
11. **INDEPENDENT CONTRACTOR.** Fiserv and Vendor are independent contractors and nothing in this Agreement shall be construed as establishing an employee/employer or other agency relationship, partnership or joint venture between them. Any Services performed by Vendor shall be performed as an independent contractor, and Vendor is solely liable for applicable payroll or income taxes.
12. **NOTICES.** All notices required under this Agreement will be in writing to the addresses shown on the face of the PO. Notices hereunder will be deemed given when delivered personally to an authorized representative or one day after deposit for overnight delivery upon verification of receipt.
13. **GOVERNING LAW.** This Agreement will be construed and interpreted under the laws of the State of New York, without giving effect to its principles of conflict of law. The application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded and the Uniform Computer Information Act does not apply to this Agreement.
14. **SEVERABILITY.** In case one or more of the provisions contained in the Agreement is deemed invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions contained herein will not be affected or impaired thereby.
15. **USE OF MARKS.** Neither party may disclose the existence of this relationship, nor use the other's name, logo, trade marks, or symbols without the other party's prior written consent.
16. **LIMITATIONS OF LIABILITY.** In no event shall Fiserv be liable under the Agreement for any indirect, incidental, special, consequential, punitive, or exemplary damages, without regard to theory of liability and regardless of whether Fiserv has been advised of the possibility of such damages. Fiserv's aggregate liability arising out of, in connection with or resulting from this Agreement shall not exceed the fees paid by it for the Product or Service which gives rise to the claim. Any cause of action hereunder must be commenced within two years after the cause of action has accrued.
17. **INSURANCE.** Vendor will take such steps as may be reasonably necessary to prevent personal injury or property damage by any of Vendor's employees, agents or subcontractors while performing Services at any of Fiserv's facilities. Vendor will secure and maintain such insurance against general liability, auto liability, and property damage. Vendor will also maintain workers compensation insurance as required by law in the state where Services will be provided, including employer's liability coverage. Depending upon Services, Fiserv may require vendors to carry additional insurance limits and coverages. Vendor will provide Fiserv (or Fiserv's designated third party vendor) with documentation evidencing the required coverage upon Fiserv's (or Fiserv's designated third party vendor's) reasonable request.
18. **EXPORT CONTROL.** The parties agree that they will not use, distribute, transfer, or transmit the Products except in compliance with all applicable export regulations.
19. **SURVIVAL.** The provisions of these Terms which by their nature survive termination or expiration of the Agreement, including without limitation the provisions regarding treatment of Confidential Information and limits of liability, shall survive such termination or expiration.
- B. **SOFTWARE PROVISIONS.**
20. **SOFTWARE LICENSE GRANT; RESTRICTIONS.** Vendor hereby grants Fiserv a worldwide, non-exclusive, royalty-free, perpetual, transferable license to use the Software for Fiserv's business purposes, including, if applicable, providing services to its clients. Fiserv will not modify, decompile, disassemble, unbundle or reverse engineer any portion of the Software to intentionally attempt to discover any underlying ideas or algorithms of the Software. In addition, Fiserv will not (a) rent, sell or lease the Software; or (b) remove any proprietary notices, labels or marks on or in any copy of the Software or associated documentation. All Software delivered in the U.S. shall be delivered electronically.

21. **USE OF SOFTWARE BY SERVICE PROVIDERS.** Unless otherwise expressly set forth in the PO, Fiserv may permit use of the Software by any third party whom Fiserv has engaged to provide services to Fiserv, provided such third party uses the software solely for purposes of providing such services.
22. **ADDITIONAL COPIES.** In the event Fiserv's copy(ies) of the Software become(s) damaged or destroyed through no fault of Fiserv Vendor agrees to promptly provide to Fiserv the most current release of the Software in use by Fiserv.
23. **TITLE TO SOFTWARE.** As between Vendor and Fiserv, Vendor retains title and intellectual property rights to the Software provided hereunder and does not convey any proprietary interest therein to Fiserv other than the license as specified herein. Notwithstanding anything to the contrary contained herein, as between Vendor and Fiserv, all right, title, and interest in and to the following shall vest in Fiserv and shall be the sole and exclusive property of Fiserv, and Fiserv does not convey any proprietary interest therein to Vendor: (a) any data used in combination with the Software; (b) all output derived from the use of the Software; and (c) any additional computer programs which Fiserv creates to operate in combination with the Software for purposes of, including but not limited to, interoperability with Fiserv or third party systems, technology and/or software and/or the creation of application programming interfaces.

C. HARDWARE/EQUIPMENT PROVISIONS.

24. **SHIPMENT.** The risk of loss or damage to Products in transit rests with Vendor. Each shipment of Products will be accompanied by a shipping notice or packing slip describing the contents of each package showing, as applicable, weight, quantity and order number. Shipment charges invoiced to Fiserv by Vendor or any third party will be accompanied by the original receipted bill of the shipper. All prices quoted in the PO will include the cost of insurance and shipping, and no additional charges of any kind will be allowed, unless otherwise agreed to by the parties in writing. Fiserv may reject Products if Vendor substitutes Products or ships more than the quantity of materials ordered without express written authority from Fiserv. The method of shipment and routing will conform to Fiserv's instructions. If not otherwise specified by Fiserv, Vendor will ship all Products via the most economical prevailing means and rate, consistent with safe and timely delivery. Delivery hereunder will not be deemed complete until the Products have been actually received by Fiserv at the location designated in the PO.