

WHEREAS, Supplier is a provider of certain goods and/or services which may include, but are not limited to, software, software maintenance, hardware, hardware maintenance, business or information technology consulting services, training/coaching services, and/or other professional services that Supplier makes available to customers; and

WHEREAS, Massachusetts Mutual Life Insurance Company ("MassMutual") desires to procure such goods and/or services.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein recited and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

- 1. This Purchase.** The purchase set forth in the Purchase Order Form is subject to: (1) the existing master agreement and associated Statement of Work, Order Form, Schedule, Work Order, or Work Authorization between MassMutual and Supplier (as applicable) (the "In-force Agreement") if any; and should no such master agreement exist between the Parties (2) the provisions on the face of the Purchase Order Form together with the General Terms and Conditions set forth herein and attachments, hyperlinks and exhibits thereto (collectively, this "Purchase Order Agreement"). To the extent applicable, this Purchase Order Agreement shall be governed by M.G.L. c. 106, Article 2 (Uniform Commercial Code - Sales).
- 2. Default:** Time is of the essence of this Purchase Order. MassMutual may by written notice of default to Supplier (a) terminate all or any part of this purchase Order if Supplier fails to perform, or so fails to make progress as to endanger performance of the Purchase Order in accordance with its terms, and does not cure such failure within a period of ten (10) days (or such longer period as MassMutual may authorize in writing) after receipt of notice from MassMutual specifying such failure; and (b) procure on such terms as it will deem appropriate, goods or services similar to those so terminated. Supplier will continue performance of the Purchase Order to the extent not terminated and will be liable to MassMutual for any excess costs for such similar goods or services. As an alternate remedy, and in lieu of termination for default, MassMutual, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Supplier's performance, in which case an equitable reduction in the Purchase Order price will be negotiated. If Supplier for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Purchase Order, Supplier will promptly notify MassMutual in writing. If Supplier does not comply with MassMutual's delivery schedule, MassMutual may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by Supplier. The rights and remedies of MassMutual provided in this herein Section will not be exclusive and are in addition to any other rights and remedies provided by the UCC, by law, at equity or under this Purchase Order.
- 3. Delivery:** Unless otherwise specified in the Purchase Order Form, delivery of goods shall be F.O.B. destination, as designated in the Purchase Order Form. Title and risk of loss shall not pass to MassMutual until delivery of the goods to the location designated on the face of this Purchase Order and acceptance by MassMutual. If MassMutual rightfully rejects the goods, receives a non-conforming tender, or revokes its acceptance, risk of loss and title shall be deemed to have remained with Supplier.
- 4. Price:** Prices specified in the Purchase Order Form shall remain fixed for all scheduled deliveries, unless otherwise agreed to in writing by MassMutual. Prices include all charges, including without limitation, insurance charges, and inspection charges, packaging charges, travel charges and shipping costs, unless separately listed in the Purchase Order Form. All applicable taxes will be separately stated on the invoices provided hereunder.
- 5. Payment:** Invoices shall be rendered on completion of services or delivery of goods and shall contain the Purchase Order number, item number, description of goods or services, quantities, unit prices, date(s) rendered and total purchase price. Each invoice must refer to one, and only one, purchase order. Payment under this Purchase Order Agreement shall be made on the terms of net sixty (60) days from the date the invoice was received by MassMutual. Cash discount periods shall be computed from either the date an acceptable invoice is received or the date of actual delivery of the goods, whichever is later. MassMutual reserves the right to issue payment via a company purchase card (P-card) or direct deposit. MassMutual will have no liability whatsoever and MassMutual will be presumed to have paid for any invoices received more than one (1) year to the date the goods are delivered and/or services rendered.
- 6. Packaging & Packing:** If applicable, each package shall be clearly labeled to indicate the applicable Purchase Order Form number and a description of the contents of the package and quantity of goods contained in the package.
- 7. Inspection & Acceptance:** All goods and services will be subject to inspection and test by MassMutual prior to final acceptance. Final acceptance or rejection of the goods or services will be made as promptly as practical after delivery except as otherwise provided in this Purchase Order, but failure to inspect and accept or reject goods or services or failure to detect defects by inspection, will neither relieve Supplier from responsibility for such goods or services as are not in accordance with this Purchase Order nor impose liabilities on MassMutual for them. MassMutual's payment for the goods shall not constitute its acceptance of the goods. Goods rejected and goods supplied in excess of quantities ordered may be returned to the Supplier at Supplier's expense. Payment, if any, made for any goods rejected hereunder shall be promptly refunded by Supplier or credited to MassMutual at MassMutual's option. If any of the goods or services are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this Purchase Order, then MassMutual, in addition to such other rights and remedies it may have by contract or by law or equity, at its sole discretion may reject and return such goods at Supplier's expense and/or require Supplier to replace nonconforming goods or services with conforming goods or services at Supplier's cost.
- 8. Warranties:** The Supplier represents and warrants (a) that it has the right to convey the goods and/or services as detailed in the Purchase Order Form and that such goods and services are free of any claim of any nature by any third person; and (b) that unless otherwise noted in the Purchase Order Form, (i) that all services are performed in a manner acceptable in the industry and in accordance with generally accepted standards, are free from all defects, are fit for the particular purposes for which they are acquired, and are provided in strict accordance with the specifications or other requirements

(including performance specifications) approved or adopted by MassMutual, (ii) that all goods sold will be of merchantable quality, free from all defects in design, workmanship and materials, and fit for the particular purposes for which they are purchased; and (iii) that the goods and services are provided in accordance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by MassMutual. This warranty shall survive inspection, delivery, payment, and termination of this Purchase Order Agreement, and shall run to MassMutual, its subsidiaries, its customers, successors, and assigns. Within the first ninety (90) days of MassMutual's receipt of such goods and/or services, MassMutual may request that the Supplier repair or replace all defective goods and/or services free of cost, and the Supplier agrees to perform such repair or replacement promptly upon the receipt of such goods; alternatively MassMutual may return such defective goods within the first ninety (90) days of MassMutual's receipt of such as set forth in Paragraph 7 above. The Supplier shall bear all warranty costs such as labor, material, inspection, and shipping to and from the Supplier's facilities. If MassMutual incurs any such costs, it may either recover them directly from the Supplier or deduct them from any amounts due the Supplier. All warranties of Supplier herein or that are implied by law shall survive any inspection, delivery, acceptance, or payment by MassMutual. Any attempt by Supplier to limit, disclaim, or restrict these warranties or any remedies of MassMutual, by acknowledgment or otherwise, in accepting or performing this Purchase Order, will be null, void, and ineffective without MassMutual's written consent.

**9. Confidential Information:** In the event that the parties will be sharing confidential information, the parties agree that the confidentiality obligations set forth in the In-force Agreement shall apply. If the parties do not have an existing In-force Agreement, then Supplier shall comply with the confidentiality requirements set forth at [https://www.massmutual.com/global/media/shared/doc/short\\_form\\_nda.pdf](https://www.massmutual.com/global/media/shared/doc/short_form_nda.pdf) which are hereby incorporated into this Purchase Order Agreement.

**10. Compliance:**

10.1 Supplier represents and warrants that it is in compliance with, and that all goods and/or services supplied hereunder have been produced or provided in compliance with, the applicable provisions of all federal, state, or local laws or ordinances and all related lawful orders, rules and regulations.

10.2 The Supplier agrees to comply with MassMutual's Code of Conduct for Suppliers, which requires, among other obligations, the Supplier to comply with applicable laws prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, or on account of race, color, religion, sex, sexual orientation, gender identity, national origin or other protected class.

10.3 **Failure to comply with this Section 10 shall constitute a material breach of this Purchase Order Agreement.**

**11. Set-Offs:** MassMutual shall have the right at any time to set off any amount owed by the Supplier to MassMutual or any of its affiliates against any amount payable by the Supplier pursuant to this Purchase Order Agreement.

**12. Force Majeure:** Neither Supplier nor MassMutual shall be liable or deemed to be in default for any delay or failure in performance of any obligation under this Purchase Order Agreement or interruption of service resulting directly or indirectly from acts of God, civil or military authority, acts of the public enemy, acts of terrorism, war, riots, civil disturbances, insurrections, fire and explosions, earthquakes, floods, the elements, government regulation (including governmental advice, quarantines, travel advisories or restrictions, and curfews), or public health emergency (including pandemics, epidemics, or outbreaks of communicable disease, or other similar occurrences, whether actually occurring or reasonably anticipated to occur based on publicly available information), each to the extent: (i) not caused by the negligence or intentional act of, and beyond the reasonable control of, the Party claiming force majeure; and (ii) the Party claiming force majeure could not have prevented such default or delay by using reasonable precautions, alternate sources, or workaround plans, including any applicable business continuity plans. The Party claiming such force majeure event shall give timely written notice to the other Party and shall use due diligence to mitigate the situation.

**13. Termination:** MassMutual may terminate this Purchase Order Agreement for any reason and at any time, in whole or in part, by written notice, including notice by email or facsimile. MassMutual's sole liability to the Supplier for such termination shall be to pay the Supplier any unpaid balance due for conforming goods and/or services delivered before receipt of MassMutual's termination notice.

**14. Limitation of Liability:** EXCEPT FOR A PARTY'S OBLIGATIONS OR LIABILITIES ARISING FROM OR RELATING TO SECTIONS 8 (WARRANTIES), 9 (CONFIDENTIAL INFORMATION), 16 (INSURANCE) AND 17 (INDEMNIFICATION), NEITHER SUPPLIER NOR MASSMUTUAL SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS, OR LOSS OF GOOD WILL) ARISING UNDER OR IN CONNECTION WITH A BREACH OR ALLEGED BREACH OF THIS AGREEMENT, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY DAMAGES AND COSTS PAYABLE TO THIRD PARTIES SHALL BE CONSTRUED AS DIRECT DAMAGES.

**15. Insurance:** Supplier shall maintain insurance coverage written for not less than the greater of any limits required by law to protect it from claims arising under or related to this Purchase Order Agreement. Evidence of this insurance shall be provided to MassMutual upon request.

**16. Indemnification:** Supplier shall indemnify and hold MassMutual and its affiliates harmless and, on MassMutual's request, shall defend each of them from and against any or all third party claims, demands, litigation, or proceedings of whatever kind, whether based upon negligence, breach of express or implied warranty, strict liability, infringement of intellectual property rights, or any other theory, and from and against all direct, indirect, special, exemplary, incidental or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with the goods and/or services, the design, manner of preparation, manufacture, construction, completion, or delivery or non-delivery of any goods and/or services by Supplier, any breach by Supplier of any of its obligations hereunder, or any other act, omission or negligence of Supplier or any of Supplier's employees, workers, servants, agents, subcontractors, or suppliers. Supplier shall, on request, pay or reimburse MassMutual or any other party entitled to indemnification hereunder for all costs and expenses, including attorneys' fees, as incurred by MassMutual or such other party in connection with any such claim, demand, litigation, proceeding, loss, or damage. In addition, for infringement claims, Supplier will, at its own

expense and at MassMutual's option, either procure for MassMutual the right to continue using the allegedly infringing item, replace it with a non-infringing equivalent, or remove it and refund the purchase price and the transportation and installation costs thereof.

**17. Work on MassMutual's Premises.** If Supplier's engagement under this Purchase Order requires Supplier to be on the premises of MassMutual, Supplier will take all necessary precautions to prevent any injury to persons or damage to property, including following any rules, procedures or other requirements of MassMutual.

**18. General:**

**18.1 Service Locations:** To the extent the applicable Purchase Order Form relates to services, Supplier shall (a) perform such services solely in the United States; (b) only use individuals located in the United States to provide services; (c) store all MassMutual Confidential Information solely in the United States; and (d) not transmit MassMutual Confidential Information to, or allow access to any MassMutual Confidential Information by, entities and individuals located outside of the United States.

**18.2 Assignment & Binding Effect:** This Purchase Order Agreement shall not be assigned by the Supplier without the prior written consent of MassMutual.

**18.3 Publicity:** Supplier will not use MassMutual's name or logo in publicity, advertising, or similar activity, except with MassMutual's prior written consent. Supplier will not disclose the existence of this Purchase Order Agreement or any of its respective terms to any third party without MassMutual's prior written consent.

**18.4 Governing Law & Venue:** This Purchase Order Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, irrespective of conflict of laws principles.

**18.5 Waiver:** No term or provisions hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach of the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

**18.6 Remedies:** Each of the rights and remedies reserved to MassMutual in this Purchase Order shall be cumulative and additional to any other remedies provided in law or equity. No delay or failure by MassMutual in the exercise of any right or remedy shall affect any such right or remedy and no action taken or omitted by MassMutual shall be deemed to be a waiver of any such right or remedy.

**18.7 Severability:** In the event any provision of this Purchase Order Agreement, or part thereof, shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, it shall not affect the enforceability of any other provision of this Purchase Order Agreement, or part thereof. If any provision of this Purchase Order Agreement is unenforceable, the Supplier and MassMutual agree to substitute an enforceable provision that preserves the original intentions and economic positions of the parties to the maximum extent legally possible.

**18.8 Entire Agreement:** In the absence of a fully executed agreement by a duly authorized representative of each party, this Purchase Order Agreement represents the sole agreement of the parties specific to the goods and/or services noted in this Purchase Order Agreement. Any and all prior written or verbal representations or warranties are merged herein and, to the extent any terms are inconsistent, the General Terms and Conditions herein govern. None of the terms and conditions contained in this Purchase Order Agreement may be added to, modified, superseded or otherwise altered except by an express written instrument signed by an authorized representative of MassMutual, notwithstanding any terms and conditions that may be contained in any acknowledgement, invoice or other form of Supplier document and notwithstanding MassMutual's act of accepting or paying for any shipment or similar act of MassMutual.

**18.9 Amendment:** This Purchase Order Agreement may be amended, modified, or supplemented only in a writing executed by an authorized representative of each of MassMutual and Supplier. Supplier's online, embedded, and other similar terms (including website terms of use and website privacy policies) are not a written amendment executed by MassMutual, even if such terms are acknowledged or accepted by a user, and such terms are void.

**18.10 Survival:** The following sections survive any termination or expiration of the Agreement: Warranties; Confidential Information; Limitation of Liability; Insurance; Indemnification; General and any other terms that by their nature should survive termination or expiration of the Agreement.