

This Master Services Agreement (this “**Agreement**”) is effective as of **19 November 2018** (the “**Effective Date**”), by and between Qualtrics, LLC (“**Qualtrics**”) and **State of Oregon** acting by and through its Department of Administrative Services (DAS) on behalf of the State of Oregon, its agencies as defined in ORS 174.111, boards, commissions,, political subdivisions, and ORCPP members (“**Subscriber**,” and each of Qualtrics and Subscriber, a “**Party**,” and collectively, the “**Parties**”). This Agreement is a framework document to establish a Services-based relationship between the Parties. Any Affiliate of Subscriber (a “Subscriber Affiliate”) may engage Qualtrics to provide services under this Agreement by entering into a service order (“**Service Order**”) with Qualtrics hereunder. For purposes of that Order only, such Subscriber Affiliate shall have all the rights and obligations that Subscriber has hereunder, and references to Subscriber herein shall be read as references to such Subscriber Affiliate. “Affiliate” means, with respect to a person, a person that controls, is controlled by, or is under common control with such person, where “control” means possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through ownership of voting securities, by contract, or otherwise. DAS is not a party to this agreement unless it purchases services by entering a separate Service Order.

Recitals

A. Under this Agreement, Subscriber may order and Qualtrics may provide two types of services (together, “**Services**”):

1. Subscription Services, which are the series of proprietary computer software programs developed by Qualtrics as delivered to Subscriber that facilitate and automate the process of conducting surveys, polls, intercepts, and reports (“**Software**”), products and related systems, security, updates and improvements thereto, and support services accessed by Subscriber using a web browser and the Internet under an Application Service Provider (ASP) model. Subscription Services are specified in a Service Order and are purchased on an annual or multi-year basis as set forth in each Service Order.

2. Professional Services, which are Services other than Subscription Services that Qualtrics performs or provides, including the development and delivery of certain deliverables (“**Deliverables**”), specified in a statement of work (“**SOW**,” and each Service Order, SOW or other ordering document, an “Order”), which SOW may contain additional terms. Professional Services are purchased on a project basis.

B. Each Order will reference this Agreement and will be subject to the terms hereof.

C. Subscriber desires to use the Services set forth in an Order, and Qualtrics desires to provide such Services to Subscriber, pursuant to the terms and conditions of this Agreement.

Agreement

In consideration of the mutual promises set forth herein, together with other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, Qualtrics and Subscriber agree as follows:

SECTION 1 LICENSE OF SUBSCRIPTION SERVICES AND RESTRICTIONS

Section 1.1 License. Pursuant to the terms of this Agreement, effective upon the Parties’ execution of an applicable Order, Qualtrics hereby grants to Subscriber a limited, non-exclusive, non-transferable (except pursuant to the Assignment section below), revocable, worldwide license to use the Subscription Services and the Deliverables, each as applicable, for Subscriber’s internal business purposes, including responses by external respondents, during the term set forth in the applicable Order. Subscriber is responsible for creating and maintaining user accounts and all use of its license, and for ensuring that those accounts are protected with passwords to prevent unauthorized use.

Section 1.2 Restrictions. Notwithstanding anything herein to the contrary, Subscriber shall not: (a) sell, resell, rent, or lease the Subscription Services; (b) permit direct or indirect access to or use of any Service in a way that (i) circumvents a contractual usage limit or (ii) violates this Agreement or an Order;

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(c) access or use any of Qualtrics' intellectual property except as provided herein; or (d) permit third parties to use the Subscription Services without obtaining the prior written consent of Qualtrics, except that Subscriber may allow third parties to use the Subscription Services if such third parties are providing services to Subscriber (but not for such third parties' own use) and such third party is not a direct competitor of Qualtrics as can be reasonably determined. Qualtrics, in its sole discretion, may restrict access to Subscriber's account after providing notice to Subscriber of unauthorized access or use and allowing Subscriber a reasonable period to cure such unauthorized access or use.

Section 1.3 Insurance. Qualtrics shall maintain in place and effect during the Term the minimum insurance coverage outlined in **Exhibit A** attached hereto.

SECTION 2 SUPPORT AND MAINTENANCE

Section 2.1 During the term of the applicable Order (the "Order Term") and on the condition that Subscriber has paid all undisputed fees due and owing to Qualtrics and is otherwise in material compliance with the terms of this Agreement, Qualtrics shall provide the support and maintenance services to Subscriber set forth in Section 2.2 and Section 2.3.

Section 2.2 Technical Support. Qualtrics shall respond to technical support requests via phone and email 24 hours a day, 7 days a week, excluding major international holidays, and make reasonable, good faith efforts to correct errors as outlined in **Exhibit B**. Subscriber shall provide Qualtrics with information as Qualtrics reasonably requests to enable Qualtrics to verify and reproduce the reported error. Online support materials for the Subscription Services ("**Online Information**") are included with the Subscription Services and are available at www.qualtrics.com/support.

Section 2.3 Contacts. Each Party shall appoint a contact person for each Order, as specified in such Order, who will be the other Party's principal contact to resolve issues related to the applicable Services. Either Party may change its contact person by providing notice thereof to the other Party. Subscriber shall designate one person to be responsible for administering its account and all its users (such person, the "**Brand Administrator**").

SECTION 3 FEES. During an Order Term, Subscriber shall pay Qualtrics the fees and charges specified on the applicable Order. Subscriber is responsible for all applicable taxes on the fees and charges paid by Subscriber, including any and all sales, use, and value-added taxes, but not any taxes imposed on Qualtrics income. Fees for Services shown on an Order do not include any applicable sales or use taxes. Subscriber is responsible for paying any fees for exceeding the limits on an Order as set forth therein. Nothing in this Agreement may be construed to permit any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Subscriber's payment for license fees due after the last calendar day of the current State of Oregon biennium is contingent upon Subscriber receiving funding, appropriations, limitations, allotments or other expenditure authority from the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Subscriber, in the exercise of its reasonable administrative discretion, to continue to compensate Qualtrics.

SECTION 4 OWNERSHIP OF INTELLECTUAL PROPERTY. Qualtrics and its licensors exclusively own all right, title, and interest in and to the Software, the Deliverables (which, for the avoidance of doubt, do not include Data (as defined below)) and any Services-related suggestions, ideas, enhancements, requests, feedback, and recommendations provided by Subscriber to Qualtrics during the Term. Any transaction contemplated hereby or by any Order is not a sale and does not convey to Subscriber any rights of ownership in or related to the Services or the Deliverables, or intellectual property rights of Qualtrics. Qualtrics' logo and the product names associated with the Services are trademarks of Qualtrics (or its licensors, where applicable) and no right or license is granted to Subscriber to use them.

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SECTION 5 SUBSCRIBER DATA

Section 5.1 General. As between the Parties, Subscriber owns all right, title and interest in and to all survey responses, reports, and any other information input or generated on behalf of Subscriber in connection with the Services (“Data”). Subscriber is solely responsible for the accuracy, quality, integrity, legality, reliability, classification, and intellectual property right to use Data and shall obtain and maintain all consents necessary for using and processing the Data in accordance herewith. Notwithstanding the foregoing, Data shall be deemed to be Subscriber’s Confidential Information (as defined below), and Qualtrics shall not use Data for any purpose other than performing its obligations hereunder or as otherwise agreed to in writing by the Parties. -- Notwithstanding the foregoing, Subscriber hereby grants to Qualtrics a non-exclusive, worldwide, royalty-free, fully paid up, sublicensable (directly and indirectly), transferrable, perpetual and irrevocable license to anonymize and aggregate the Data and use such anonymized and aggregated data (“Usage Data”) for Qualtrics’ business purposes. Qualtrics shall own all right, title and interest in Usage Data. Usage Data will not include any brand or personally identifiable information or Data unique to the Subscriber. Usage Data shall not be considered Confidential Information of Subscriber.

Section 5.2 Data Security. Qualtrics shall maintain appropriate technical and organizational security measures to protect Data against: (a) accidental destruction, loss, and alteration; and (b) unauthorized disclosure of, or access to, Data transmitted, stored or otherwise processed as set forth herein. Qualtrics uses secure hosting facilities that are independently audited using the SSAE-16 methodologies. Qualtrics shall comply with applicable data processing laws relating to the processing, transmission, and disclosure of Data.

Section 5.3 Incidents. Either Party shall, as expeditiously as possible after discovery thereof, notify the other Party of: (a) any loss, unauthorized disclosure, or unauthorized use of Data; or (b) any access, acquisition or misappropriation of Data by third parties, including any intrusion into a computer system used to process Data; or (c) any other disclosure of Data in violation of this Agreement (collectively, “Security Breach”). In the event of a Security Breach, each Party shall take such steps as are necessary to: (i) promptly mitigate the effects of such Security Breach and prevent a recurrence thereof; and (ii) comply with applicable laws relating to such Security Breach.

Section 5.4 Data Transfer. Qualtrics is strictly a data processor, not a data controller for the processing of the Data in order to provide the Services. Subscription Services are self-service (“do-it-yourself”) products in which only Subscriber determines what data to collect, from whom, from where, for what purpose, and when to delete it. Qualtrics shall (a) store and process all Data in a single geographical region as specified on an Order and (b) not transfer Data out of that region. Qualtrics is responsible for the daily backup of Data for disaster recovery purposes only and the deletion of such backups. Subscriber is responsible for routine backup and deletion of Data.

SECTION 6 TERM AND TERMINATION

Section 6.1 Termination. Either Party may immediately terminate this Agreement or any Order for cause upon notice if the other Party: (a) materially breaches this Agreement and such breach is not cured within 30 days after the breaching Party receives notice thereof from the other Party (or 10 days in the case of payment breach); or (b) becomes insolvent, acknowledges insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or files a petition in bankruptcy. Nothing in this Agreement may be construed to permit any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Licensee’s payment for license fees due after the last calendar day of the current State of Oregon biennium is contingent upon Licensee receiving funding, appropriations, limitations, allotments or other expenditure authority from the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Licensee, in the exercise of its reasonable administrative discretion, to continue to compensate Licensor. Licensee may immediately terminate this Agreement upon written notice if Licensee fails to receive funding, appropriations, limitations, allotments, or other expenditure authority as contemplated by Licensee’s budget or spending plan and

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Licensee determines, in its assessment and ranking of the policy objectives explicit or implicit in its budget or spending plan, that it is necessary to terminate this Agreement

Section 6.2 Term. The term of this Agreement (“Term”) commences on the Effective Date and continues for three years and may renew for two additional one-year periods, as renewed by subscriber, unless earlier terminated as provided below. Each Order still in effect as of the expiration of this Agreement will remain in effect after such expiration, subject to the terms and conditions of this Agreement, until the expiration or termination of such Order.

- (a) **Termination of Professional Services.** Except as otherwise specified, obligations for Professional Services expire automatically upon (a) fulfillment of the last milestone as stated in the applicable Order; (b) the termination of the applicable Order in accordance with the terms thereof; or (c) the termination or expiration of Subscriber’s Subscription Services. If custom functionality developed under an Order, in whole or in part, becomes available as part of a standard Qualtrics product or paid features maintained by Qualtrics, then (i) Qualtrics may migrate the Subscriber to use such functionality or feature on the standard Qualtrics product, and (ii) Qualtrics is not required to maintain that custom functionality under such Order.

Section 6.3 Effect of Termination. Following any termination of this Agreement, Qualtrics shall discontinue providing Services, and Subscriber shall cease using Services. Within 30 days after the end of the Term or termination of this Agreement, (a) Subscriber shall pay to Qualtrics all outstanding undisputed fees payable as of the effective date of termination and (b) Qualtrics shall refund any pro-rated unused fees prepaid by Subscriber if Subscriber terminates this Agreement for cause or pursuant to a Force Majeure Event (defined below). If this Agreement is terminated for cause, each Order in effect will also terminate.

Section 6.4 Subscriber Right to Access Data After Termination. Upon the termination of all Subscription Services, Qualtrics shall make available to Subscriber a portal whereby Subscriber may download and delete Data for a period of 30 days. Qualtrics is not required to retain Data after such 30-day period has ended.

SECTION 7 REPRESENTATIONS AND WARRANTIES

Section 7.1 Mutual. Each Party represents and warrants to the other Party that:

- (a) it has the power and authority to enter into this Agreement and perform its obligations hereunder, and such performance will not breach any separate agreement by which it is bound; and
- (b) it will comply with applicable laws, rules, and regulations.

Section 7.2 Qualtrics. Qualtrics warrants to Subscriber that:

- (a) it will use commercially reasonable efforts to ensure that Software and any updates to the Software will not introduce any malicious code that could disrupt any software or system used by Subscriber in connection with the Subscription Services;
- (b) it will implement appropriate technical and organizational security measures designed to protect Data against theft, unauthorized access, copying, and distribution;
- (c) the Subscription Services will materially comply with the Online Information;
- (d) it will abide by all principles in the Qualtrics Security White Paper (<http://www.qualtrics.com/docs/QualtricsSecurityWhitepaper.pdf>), the URL for which will remain active throughout the Term, and which will only be updated as required to reflect improved security and operational procedures;
- (e) it will comply with applicable data privacy laws as a data processor; and

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- (f) it has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of Oregon, and that Qualtrics has no undisclosed liquidated and delinquent debt owed to Oregon or any political subdivision thereof.

Section 7.3 Subscriber. Subscriber warrants to Qualtrics that:

- (a) it will not: (i) use (or allow use of) the Services in any manner prohibited by this Agreement; (ii) reverse engineer the Services; (iii) tamper with the security of the Software; or (iv) interfere with or disrupt the integrity or performance of the Services;
- (b) it will use commercially reasonable efforts to prevent its employees and other third parties from (i) gaining unauthorized access to the Services; or (ii) making unauthorized copies of the Software, and, if any such unauthorized duplication or use is discovered, it will promptly notify Qualtrics and take prompt actions to resolve the issue;
- (c) it will not use the Services to (i) send irrelevant or inappropriate messages to third parties (e.g., "spam"); (ii) send or store malicious code; or (iii) upload content that (A) infringes, misappropriates, or otherwise violates any third party's intellectual property right or (B) aggravates, harasses, threatens, defames or abuses Qualtrics or third parties; and
- (d) it will comply with applicable data privacy laws.

Section 7.4 Infringement.

- (a) Qualtrics represents and warrants that the Software and any Deliverables do not infringe any third party's intellectual property rights, except to the extent such infringement results from (i) content uploaded to or collected into the Software by Subscriber or a third party acting under Subscriber's license, (ii) Qualtrics' compliance with instructions or specifications provided by Subscriber, or (iii) the combination of the Software or any Deliverables with other content, services, or products not supplied by Qualtrics.
- (b) Except with respect to indemnification for third-party claims as set forth in Section 10, as Subscriber's sole remedy and Qualtrics' sole liability for Qualtrics' breach of Section 7.4(a), Qualtrics shall, at its option and sole cost and expense: (i) obtain the right for Subscriber to continue to use the Software or Deliverables as licensed by this Agreement; (ii) modify or replace the Software or Deliverables, in whole or in part, to seek to make the Software or Deliverables (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Software or Deliverables under this Agreement; or (iii) if in Qualtrics' discretion the options set forth in clauses (i) and (ii) are not commercially reasonable, by notice to Subscriber, terminate this Agreement and any applicable Orders with respect to all or part of the Services, and require Subscriber to immediately cease any use of the Services or any specified part or feature thereof, in which case Qualtrics shall refund to Subscriber a prorated portion of Subscriber's prepaid unused fees for the discontinued features of the Services.

Section 7.5 Breach by Subscriber. In the event of a breach of this Section 7 by Subscriber, Qualtrics may suspend user accounts or remove any content after providing notice to Subscriber of such breach and allowing Subscriber a reasonable period to cure such breach.

Section 7.6 Limitation of Warranties. EXCEPT AS SET FORTH IN THIS SECTION 7, EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE AND MERCHANTABILITY, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7 AND EXHIBIT B, ALL SERVICES PROVIDED BY QUALTRICS HEREUNDER ARE STRICTLY ON AN "AS IS"

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BASIS, AND QUALTRICS DOES NOT MAKE ANY WARRANTIES, REPRESENTATIONS, OR COVENANTS WITH RESPECT TO ANY THIRD-PARTY CONTENT OR PRODUCTS, EXPRESS OR IMPLIED.

SECTION 8 CONFIDENTIAL INFORMATION

Section 8.1 Definitions. As used herein, “**Recipient**” means the Party receiving Confidential Information from the other Party; “**Discloser**” means the Party providing Confidential Information to the other Party; and “**Confidential Information**” means each Order, the Services, Data, the substantive terms of this Agreement, and any other information, written or oral, that should reasonably be expected by the Recipient to be confidential. Confidential Information does not include information which (a) becomes generally available to the public in any manner or form through no fault of Recipient or its employees, agents or representatives, but only from the date that it becomes so available, (b) was rightfully in possession of Recipient without obligation of confidentiality prior to receipt thereof from Discloser, (c) is independently developed by Recipient without benefit of any Confidential Information, (d) is rightfully received by Recipient from another source on a non-confidential basis, or (e) is released for disclosure with Discloser’s prior written consent.

Section 8.2 Use and Disclosure. Recipient shall keep the Confidential Information of Discloser confidential and not disclose to any person or use for any purpose, except as expressly permitted by this Agreement, any Confidential Information of Discloser, except that Recipient may disclose Confidential Information to those employees, independent contractors, and advisors who have a need to know such information for Recipient to perform its obligations or exercise its rights hereunder, and who are bound to keep such information confidential. Recipient shall give Discloser’s Confidential Information at least the same level of protection as Recipient gives its own Confidential Information of similar nature, but not less than a reasonable level of protection. Recipient shall maintain Confidential Information in a safe and secure place and not copy Confidential Information except to the extent necessary for the purposes hereof. All confidentiality obligations will survive termination of this Agreement until the information covered hereby no longer meets the definition of Confidential Information. Upon written request from Discloser and subject to any legal obligation to preserve Confidential Information (e.g., litigation hold), Recipient shall promptly return or destroy all Confidential Information (other than Data). Recipient may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, on the condition that the Recipient, (a) to the extent permitted by law, gives the Discloser reasonable notice to allow the Discloser to seek a protective order or other appropriate remedy, (b) discloses only such information as is required by the governmental entity or otherwise required by law, and (c) uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed. Any obligation of Subscriber to maintain the confidentiality of Qualtrics’ proprietary information provided to Subscriber is conditioned by and subject to Subscriber’s obligations under the Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.311 to 192.513 which may require disclosure of proprietary information as a “public record” unless exempt under ORS 192.345 or ORS 192.355.

Section 8.3 Injunctive Relief. Because money damages may not be a sufficient remedy for any breach of the obligations in this Section 8, Discloser is entitled to seek specific injunctive relief as a remedy for any such breach.

SECTION 9 LIMITATION OF LIABILITY

Section 9.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF BUSINESS, DATA, REVENUE, PROFITS, USE, DIMINUTION IN VALUE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE SERVICES OR THIS AGREEMENT, INCLUDING THE USE OR INABILITY TO USE THE SERVICES, ANY

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CONTENT OBTAINED FROM OR THROUGH THE SERVICES, AND ANY INTERRUPTION, INACCURACY, ERRORS, OR OMISSIONS, EVEN IF A PARTY HAS BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 9.2 THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY UNDER ANY ORDER (INCLUDING THIS AGREEMENT AS APPLIED THERETO) SHALL NOT EXCEED THE FEES ACTUALLY PAID BY SUBSCRIBER TO QUALTRICS UNDER SUCH ORDER IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM, EXCEPT FOR SECTION 7.3(C), FOR WHICH THE MAXIMUM LIABILITY SHALL BE SUBJECT TO THE LIMITATIONS OF ARTICLE XI, SECTION 7 OF THE OREGON CONSTITUTION AND THE OREGON TORT CLAIMS ACT, ORS 30.260 THROUGH 30.300 AS THEY MAY APPLY TO GOVERNMENTAL ENTITIES OF OREGON.

SECTION 9.3 THE LIMITATION OF LIABILITY IN SECTION 9.1 DOES NOT APPLY TO SECTION 5 AND SECTION 8 (SUBSCRIBER DATA AND CONFIDENTIAL INFORMATION) AND THE LIMITATIONS OF LIABILITY IN SECTION 9.1 AND SECTION 9.2 DO NOT APPLY TO SECTION 10 (INDEMNIFICATION) AND ANY FEES PAYABLE HEREUNDER. EACH PARTY SHALL USE REASONABLE EFFORTS TO MITIGATE ANY POTENTIAL DAMAGES OR OTHER ADVERSE CONSEQUENCES ARISING FROM OR RELATING TO THE SERVICES.

SECTION 10 INDEMNIFICATION. Each Party (the "Indemnifying Party") shall indemnify and hold the other Party (the "Indemnified Party"), and if applicable, its licensors and affiliates and each of their officers, directors, and employees harmless from and against any and all costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) incurred as a result of third-party claims to the extent arising out of or in connection with infringement or alleged infringement of any third party's intellectual property right due to the Indemnifying Party's actions or inactions. The Indemnified Party shall: (a) promptly give notice of the claim to the Indemnifying Party; (b) give the Indemnifying Party sole control of the defense and settlement of the claim; (c) provide to the Indemnifying Party all available information and assistance; and (d) not compromise or settle such claim. Notwithstanding the foregoing, the Indemnifying Party is in no way obligated to the Indemnified Party or any third party under this Section to the extent that a claim is based upon any one of the following: (i) content uploaded to or collected into, or modification of, the Services by a party other than the Indemnifying Party; (ii) the Indemnifying Party's compliance with instructions or specifications provided by the Indemnified Party; or (iii) the combination of content, services or products with other content, services or products not supplied by the Indemnifying Party. To the extent Subscriber is required under the License to indemnify or hold Licensor harmless against claims brought by third parties against Qualtrics, Subscriber's obligation to indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.

SECTION 11 GENERAL

Section 11.1 Choice of Law and Jurisdiction. The Parties hereby expressly disclaim the application of the Uniform Computer Information Transaction Act and the United Nations Convention on the International Sale of Goods to this Agreement or any Order.

Section 11.2 Force Majeure. Neither Party will be liable for any delays in, or failures of, performance under this Agreement or any Order, except for payments, to the extent that performance of such Party's obligations or attempts to cure any breach under this Agreement or any Order are delayed or prevented as a result of any event or circumstance beyond the reasonable control of such Party ("Force Majeure Event"), except that the other Party may terminate this Agreement or any affected Order upon 30 days' notice if the circumstances causing non-performance can reasonably be expected to continue for more than one calendar month.

Section 11.3 Entire Agreement; Amendment; Counterparts. This Agreement, the attached Exhibits, and each Order executed hereunder, constitute the entire agreement between the Parties concerning the subject matter hereof and thereof and supersede all written or oral prior agreements or understandings with respect thereto, including any proposals, price quotes, click-wrap agreements, purchase order terms and conditions or non-disclosure agreements. All Exhibits and Orders are hereby incorporated into this Agreement as if set forth herein in full. In the event of any conflicts between the terms of this Agreement and

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the terms of any Exhibit, Order, or other document binding and applicable to the Parties, the terms of this Agreement control unless expressly stated otherwise. This Agreement, the attached Exhibits, and each Order may not be amended except in writing signed by authorized representatives of both Parties. This Agreement or any Order may be executed by the Parties electronically and in counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument.

Section 11.4 Language. This Agreement, the attached Exhibits, and each Order have been prepared and written in English. Any non-English translation thereof is provided for convenience only and is not valid or legally binding.

Section 11.5 Construction. The Parties intend this Agreement and each Order to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. Unless the context requires otherwise, as used herein, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation," (b) the word "or" is not exclusive, and (c) the words "herein," "hereof," "hereto," "hereunder," and similar words refer to this Agreement as a whole.

Section 11.6 Severability. If any one or more of the provisions of this Agreement or any Order is held invalid, illegal, or unenforceable, such invalid, illegal, or unenforceable provision will be modified, if possible, to the minimum extent necessary to make it valid and enforceable, or if it cannot be so modified, then severed, and the remaining provisions contained herein or therein will not in any way be affected or impaired.

Section 11.7 Waiver. Neither Party's failure to enforce strict performance of any provision of this Agreement or any Order will constitute a waiver of a right to subsequently enforce such a provision. No modification, extension, or waiver of this Agreement or any Order will be valid unless made in writing and signed by an authorized representative of the Party to be charged. No written waiver will constitute, or be construed as, a waiver of any other obligation or condition of this Agreement or any Order.

Section 11.8 Assignment. Neither Party may assign this Agreement or any Order, by operation of law or otherwise, without the prior written consent (not to be unreasonably withheld or delayed) of the other Party, except that either Party may assign this Agreement without consent to (a) an affiliate of such Party or (b) its successor in a merger, acquisition, or other change of control, including the sale of all or substantially all of its assets, stock, or business to which this Agreement or the applicable Order relates, in each case on the condition that the assignee is not a direct competitor of the non-assigning Party. Qualtrics may use partners to perform certain portions of the Services, but Qualtrics remains responsible for all of Qualtrics' obligations hereunder.

Section 11.9 No Agency. Neither this Agreement nor any Order will be construed to create an agency, franchise, representative, joint venture, employment relationship, or partnership between the Parties. The Parties are and remain independent contractors. Neither Party has the authority to bind the other or to incur any liability or otherwise act on behalf of the other.

Section 11.10 Survival. Each Party's obligation under Section 6.3, Section 8, Section 9, Section 10, and Section 11 will survive the Term or termination of this Agreement for a period of two years, except that Qualtrics' obligations related to the storage and protection of Data will continue perpetually with respect to any Data that has not been permanently destroyed within its Service.

Section 11.11 Cumulative Remedies. Except as expressly set forth herein or in any Order, the rights and remedies provided hereunder are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity or otherwise.

Section 11.12 Notices. Each Party shall cause all notices it delivers to the other Party hereunder and under each Order to be in writing and sent (i) by a delivery service with provisions for a receipt, to the physical address listed on the signature page hereto; or (ii) by email to *notice@qualtrics.com* for notices

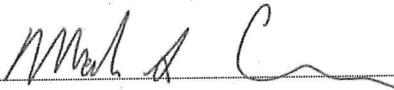
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going to Qualtrics, or to the email address listed for Subscriber in the applicable Order for notices going to Subscriber. Except as otherwise provided herein, any notice or other communication is effective only (a) upon receipt (or rejection) by the receiving Party and (b) if the Party giving notice has complied with the requirements of this Section.

Section 11.13 No Third-Party Beneficiaries. Except as otherwise set forth herein, this Agreement is for the sole benefit of the Parties and their permitted successors and assigns, and nothing herein is intended to or should confer upon any other individual or entity any legal or equitable right, benefit, or remedy of any nature whatsoever.

Section 11.14 Export Controls. Qualtrics provides services and uses software and technology that may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Subscriber shall not permit access to or use of any Service in a U.S. embargoed country or in violation of any U.S. export law or regulation.

The Parties have executed this Master Services Agreement as of the Effective Date.

Qualtrics, LLC	Subscriber
By: 	By:
Name: Mark Creer	Name:
Title: Managing Counsel	Title:
Date: 15 November 2018	Date:
Address: Qualtrics, LLC Attn: Legal Department 333 W River Park Dr. Provo, UT 84604 United States	Address:

BY: Oregon Department of Administrative Services, Procurement Services



Cort Dokken
IT Procurement Strategist

Date: 11-15-18

Approved for legal sufficiency November 14, 2018

Attachments:

Exhibit A: Insurance Coverage

Exhibit B: Service Level Agreement/Incident Response

Exhibit A

Insurance

Qualtrics shall at its own expense secure and continuously maintain throughout the Term the following insurance with companies qualified to do business in the jurisdiction in which the services will be performed and rating A-VII or better in the current Best's Insurance Reports published by A.M. Best Company.

1. Worker's Compensation Insurance, which shall fully comply with the statutory requirements of all applicable state and federal laws.
2. Commercial General Liability Insurance with a combined single limit of liability of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, death, property damage, personal injury, and products.
3. Business Automobile Liability Insurance covering all owned and non-owned and hired vehicles used by Qualtrics with a combined single limit of liability of \$1,000,000 for injury and/or death and/or property damage.
4. Excess (Umbrella) coverage with respect to Sections 1, 2, and 3 above with a per occurrence limit of \$5,000,000.
5. Cyber and Errors and Omissions (Professional Liability) Insurance with limit of \$5,000,000, covering liabilities arising from a) product or service financial injury caused by a product or service defect or performance failure; b) technology-related injury caused by any errors or omissions and all series of continuous, repeated or related acts, errors or omissions; and c) breach mitigation and notification expenses related to a privacy breach. Coverage also includes reasonable legal litigation expenses.
6. Crime Insurance (Employee Dishonesty) with limit of \$1,000,000.

Exhibit B

Qualtrics Incident Response and Service Levels

Incident Response

1. An “**Incident**” is declared by Qualtrics when any of the following occurs:
 - a. A malfunction, disruption, or unlawful use of the Service;
 - b. The loss or theft of Data from the Service;
 - c. Unauthorized access to Data, information storage, or a computer system; or
 - d. Material delays or the inability to use the Service.
2. An Incident involving the loss or unauthorized access of Data, not due to Subscriber’s errors or omissions, will always be categorized as Code Red. In such a case, Subscriber will be notified as expeditiously as possible after a disclosure is discovered. Qualtrics will conduct a formal investigation and will deliver an official written report to Subscriber within two weeks of the Incident.
3. Incidents are prioritized as set forth in the Incident Level Table below.

Service Levels

1. **Availability.** Qualtrics will use commercially reasonable efforts to ensure that the Subscription Services will be available at all times, excluding when the Subscription Services are unavailable due to (a) required system maintenance as determined by Qualtrics (“**Scheduled Maintenance**”); and (b) causes outside of the reasonable control of Qualtrics that could not have been avoided by its exercise of due care, including any outages caused by: (i) the failure of any third party vendors; (ii) the Internet in general; (iii) a Subscriber-caused event; or (iv) any Force Majeure Event (“**Availability**”).
2. **Scheduled Maintenance.** A minimum of five days’ advance notice will be provided by email to Subscriber for all Scheduled Maintenance exceeding two hours. For Scheduled Maintenance lasting less than two hours, notice will be displayed on the login page.
3. **Downtime.** “**Downtime**” is defined as the Subscription Services having no Availability, expressed in minutes.
4. **Remedies for Downtime.** If Downtime exceeds a certain amount per month, Subscriber will be entitled, upon written request, to a credit (“**Fee Credit**”) based on the formula: Fee Credit = Fee Credit Percentage set forth below * (1/12 current annual Fees paid for Software affected by Downtime). All times listed immediately below are per calendar month.
 - a. If Downtime is 30 minutes or less, no Fee Credit Percentage is awarded.
 - b. If Downtime is from 31 to 120 minutes, Subscriber is eligible for a Fee Credit Percentage of 5%.
 - c. If Downtime is from 121 to 240 minutes, Subscriber is eligible for a Fee Credit Percentage of 7.5%.
 - d. If Downtime is 241 minutes or greater, Subscriber is eligible for a Fee Credit Percentage of 10.0%
 - e. If Downtime is 241 minutes or greater or Scheduled Maintenance is greater than 8 hours in each of three consecutive months, Subscriber is eligible for a pro-rated refund and may terminate this Agreement for cause.
5. **Fee Credits.** Except as specified in Section 4.e above, Fee Credits will be Subscriber’s sole and exclusive remedy in the event of any failure to meet the Service Levels. Fee Credits will be applied to Subscriber’s next invoice.

Exhibit B

Incident Level Table

Incident Level	Typical Conditions	Resolution Response
4	A minor issue affecting an individual user that may not be reproducible.	Addressed by support team for workaround or other resolution.
3	The problem is reproducible and has an impact on usability of the product, though a workaround exists to garner full functionality.	Addressed in a subsequent release in a reasonable timeframe.
2	A product is effectively unusable on a widespread basis; survey taking experience significantly affected.	Corrected as expeditiously as possible after code is developed and tested.
Code Red	Loss of a key functionality or access to Service. Data loss due to unauthorized access. A suspected/actual data breach or security threat. Survey taking severely hindered or impossible.	Full engineering efforts directed toward resolution. After hours, Engineer-on-call will be contacted and will work nonstop until resolution is met.