



Order Form

Parties:	Qualtrics, LLC 333 W. River Park Dr. Provo, UT 84604 United States ("Qualtrics")	County of Monterey 1270 Natividad Rd. SALINAS, CA 93906 United States ("Customer")	
Effective Date:	September 1, 2022.		
Governing Document:	This Order Form is subject to the Terms and Conditions for Qualtrics Cloud Services executed with effective date of September 1, 2022 (the "Agreement"). All capitalized terms used but not defined herein have the meanings given to them in the Agreement. If there is a conflict between the terms of the Agreement and this Order Form, this Order Form will control.		
Attachments:	<ul style="list-style-type: none"> - Service Level Exhibit - Fees Exhibit - Cloud Service Exhibit -Professional Services Exhibit 		
Services:	As set forth in the exhibits attached hereto		
Term:	As set forth in the exhibits attached hereto		
Payment Terms:	As set forth in the exhibits attached hereto		
Additional Terms:			
To be completed by Customer			
Regional Data Center:	Monterey County Health Dept. (Administration Bureau)	Purchase Order Number (if any):	
Email Address for Invoice Submission:	HDADMINFinance@co.monterey.ca.us	Shipping Address:	Monterey County Health Department 1270 Natividad Rd. Salinas, Ca. 93906
Invoicing Instructions (if applicable):		Billing Address for Invoice Submission:	Attn: Health Administration 1270 Natividad Rd. Salinas, Ca. 93906

Qualtrics	Customer
By (signature):	By (signature):
Name:	Name:
Title:	Title:
Date:	Date:
Qualtrics Primary Contact:	Customer Primary Contact:
Name: Sharath Bhat	Name: Roxann Seepersad
Phone:	Phone: 831-755-4522
Email: sharathb@qualtrics.com	Email: seepersadr@co.monterey.ca.us

DocuSigned by:

Approved as to Form:

Stacy Saetta

C0ECE1B99F444A9...

Chief Deputy County Counsel

Dated: 8/22/2022 | 1:38 PM PDT

DocuSigned by:

Approved as to Fiscal Provisions:

Gary Giboney

D3834BFEC1D8449...

Chief Deputy Auditor Controller

Dated: 8/22/2022 | 1:42 PM PDT



Order Form Service Level Exhibit

Service Levels

1. **Availability.** Qualtrics will use commercially reasonable efforts to ensure that the Cloud Service will be available at all times, excluding when the Cloud Service is 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 Internet in general; (ii) a Customer-caused event; or (iii) any Force Majeure Event ("**Availability**").
2. **Scheduled Maintenance.** A minimum of five days' advance notice will be provided by email to Customer 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 Cloud Service having no Availability, expressed in minutes.
4. **Remedies for Downtime.** If Downtime exceeds a certain amount per month, Customer 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.
 1. If Downtime is 30 minutes or less, no Fee Credit Percentage is awarded.
 2. If Downtime is from 31 to 120 minutes, Customer is eligible for a Fee Credit Percentage of 5%.
 3. If Downtime is from 121 to 240 minutes, Customer is eligible for a Fee Credit Percentage of 7.5%.
 4. If Downtime is 241 minutes or greater, Customer is eligible for a Fee Credit Percentage of 10.0%

Order Form

Fees Exhibit

License Details

Start Date	End Date	Term in Months
01-Sep-2022	30-Jun-2025	36

Cloud Service Details

Period	Services	Price	Estimated Invoice Date	Payment Terms from Invoice	License Configuration
01-Sep-2022 TO 31-Aug-2023	Cloud Professional	\$26,875.00 \$3,125.00	Effective Date	Net 45	Q-1728888
01-Sep-2023 TO 31-Aug-2024	Cloud Professional	\$65,000.00 \$0.00	02-Aug-2023	Net 45	Q-1728890
01-Sep-2024 TO 31-Aug-2025	Cloud Professional	\$65,000.00 \$0.00	02-Aug-2024	Net 45	Q-1728891
Total		USD \$160,000.00			

Prices shown do not include applicable taxes. Applicable taxes will be presented on the invoice.

Press Release

Notwithstanding anything to the contrary in the Agreement, upon mutual execution of this Order Form Customer grants Qualtrics the right to issue a press release naming Customer as a customer of Qualtrics and identifying the product purchased.

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Cloud Service Exhibit

Cloud Service Renewal (not applicable to pilots or proofs of concept). Qualtrics sends renewal notices to customers at least 60 days before the end of the term. Upon expiration of each term, the Cloud Service may be renewed on mutual written agreement by the parties for a successive one-year term with a price increase of no more than 5% at such renewal.

[Description of Services on following page]

Order Form

YEAR 1
Q-1728888

CLOUD SERVICE

CX Use-Case

Foundation - User : Includes up to 5
SMS Text Reserve : up to 50000
Foundation - Responses : up to 25000

Business Advanced - User
Business Advanced - Responses : up to 1000

YEAR 2
Q-1728890

CLOUD SERVICE

CX Use-Case

Foundation - User : Includes up to 5
Foundation - Responses : up to 25000
Business Advanced - User
Business Advanced - Responses : up to 1000

YEAR 3
Q-1728891

CLOUD SERVICE

CX Use-Case

Foundation - User : Includes up to 5
Foundation - Responses : up to 25000
Business Advanced - User
Business Advanced - Responses : up to 1000

Order Form

Professional Services Exhibit

Definitions: All capitalized terms not otherwise defined herein shall have the meanings assigned to them in this SOW.

1. Definitions

- a. "Deliverables" refers to those implementation deliverables included in the Project Scope in Section 2.
- b. "Delivery Team" refers to the set of resources assigned for fulfillment of project scope.
- c. "Project" refers to the project that is the accumulation of Deliverables to be provided under this Statement of Work.
- d. "Standard Business Hours" are 0900 to 1700 hours according to the time zone of the office in which Delivery Team is located, unless otherwise agreed to in writing during the Project.

2. Project Scope

- a. Inclusions
 - i. 10 hours of support for the Qualtrics platform, including training, quality checking, guidance and/or configuration of any of the platform features. No more than five hours can be used in a week. After two months from authorization, unused hours will expire.
- b. Assumptions
 - i. For the duration of the Project, Customer will provide the Delivery Team with access to Customer's Qualtrics brand (account) as a brand administrator.

3. Responsibilities

- a. Delivery Team Responsibilities
 - i. Engages with Customer throughout the Project, keeping Customer informed of timelines and progress toward completion throughout the Project.
 - ii. Shares training resources as appropriate for each Deliverable, which may be in the form of live online training, online materials, and/or free online webinars.
 - iii. Offers guidance and support required to ensure Customer can fulfill responsibilities of launching projects in Qualtrics.
 - iv. For projects that involve a new license setup, provides initial configuration of license and Qualtrics account, including creation of up to 3 brand administrator users.
- b. Customer Responsibilities
 - i. Engages actively throughout the Project, following a cadence decided with Delivery Team during kickoff call; changes or cancellations of any meetings require 24 hours notice in order to avoid forfeiture of allotted time.
 - ii. Manages User Acceptance Testing ("UAT") process and any special testing requirements, ensuring that each stage of the Project is complete and the scope of work has been met. This may include:
 1. Uploading sample data to the Qualtrics platform to test system functionality and license settings.
 2. Validating that scoped features and settings were implemented correctly and meet the requirements of the Project.
 3. Engaging other stakeholders within Customer's organization as needed to test technical or functional aspects of the Qualtrics platform.
 - iii. As needed, provides resources to fill all required roles for successful implementation, which may include project sponsorship, signatory, stakeholder management, project coordination, customer experience lead, technical lead, operational support.

Order Form

- iv. Maintains all features included in the license after the implementation period, including any updates to Deliverables created during the Project, as well as the creation of any new Deliverables, including surveys and dashboards.
- v. For projects that involve a new license setup, provides required information for setup of brand administrator accounts; brand administrator users may create additional user accounts and manage access to the license, in accordance with any limitations specified in the license terms.

4. Governance

- a. Delivery Team will coordinate with Customer to schedule a Project kickoff call, at which time the Project begins. Timing of kickoff call will be mutually agreed between Delivery Team and Customer based on Delivery Team availability and Customer's milestones. It is estimated that the Project will begin after this agreement has been fully executed. It is estimated that the hours on this project will be utilized within 2 months of the contract signature date.
- b. The Project is complete based on completion of delivery and Customer's acceptance, per the terms of the Acceptance Criteria section.
- c. Unless otherwise agreed by both parties in writing, all interactions and meetings will be conducted in English, and will be conducted remotely, via phone, email, or videoconference.

5. Acceptance Criteria

- a. Once a Project phase is completed and the Delivery Team provides notification of the Deliverables for review and approval, the Customer will either (1) confirm the requirements have reasonably been met and sign off on the approval for the next implementation phase to begin or (2) reply to the Delivery Team, in writing, detailing the specific requirements that must still be met. Upon mutual agreement, both parties may agree to extend the time period for UAT, though additional time may impact Project timelines and budget and be subject to a Change Order (as defined below).
- b. Ensures that all Deliverables are reviewed and signed off according to the following process:
 - i. Delivery Team will submit final drafts for review and sign-off at least 5 business days prior to the Deliverable completion date.
 - ii. Customer will sign off or report any issues within 5 business days of draft submission.
 - iii. The Delivery Team will correct reported issues within a mutually agreed time frame.
 - iv. Customer will provide written feedback and raise issues related to the reworked portion of the Deliverable within a mutually agreed time frame, and the Delivery Team will make changes necessary to resolve the issues.
 - v. Customer will provide final review and signoff on the reworked Deliverables within 2 business days.
 - vi. Deliverables will be considered accepted if the Customer does not provide written notification of Deliverable rejection within the timelines specified above.

6. Third Party Vendors and Products

- a. Customer remains responsible for their own vendors and third parties providing services related hereto.
- b. Qualtrics is not responsible for third party products obtained by Customer.

7. Change Orders

- a. If Customer or Delivery Team wishes to change the scope of the Project, they will submit details of the requested change to the other in writing. Delivery Team will, within a reasonable time after such request is received, provide a written estimate to Customer of changes to Project cost, timeline, and/or scope.
- b. Promptly after receipt of the written estimate, Customer and Delivery Team will negotiate and agree in writing on the terms of such change (a "Change Order"). Each Change Order complying with this Section will be considered an amendment to this Order Form.

GENERAL TERMS AND CONDITIONS FOR QUALTRICS CLOUD SERVICES ("GTC")

Between

Qualtrics, LLC
(an SAP America Inc. company)
333 W. River Park Drive
Provo, Utah 84604
("Qualtrics")

And

[County of Monterey]
[1270 Nativida Rd., Salinas, Ca. 93906]
("Customer")

1. DEFINITIONS

Capitalized terms used in this document are defined in the Glossary.

2. USAGE RIGHTS AND RESTRICTIONS

2.1 Grant of Rights.

Qualtrics grants to Customer a non-exclusive, non-transferable and world-wide right to use the Cloud Service (including its implementation and configuration), Cloud Materials (as applicable) and Documentation solely for Customer's and its Affiliates' internal business operations. Permitted uses and restrictions of the Cloud Service also apply to Cloud Materials and Documentation.

2.2 Authorized Users.

Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual, but may be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Customer is responsible for breaches of the Agreement caused by Authorized Users.

2.3 Acceptable Use Policy.

With respect to the Cloud Service, Customer will not:

- (a) disassemble, decompile, reverse-engineer, copy, translate or make derivative works,
- (b) transmit any content or data that is unlawful or infringes any intellectual property rights, or
- (c) circumvent or endanger its operation or security.

2.4 Verification of Use.

Customer will monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume. Qualtrics may monitor use to verify compliance with Usage Metrics, volume and the Agreement.

2.5 Suspension of Cloud Service.

Qualtrics may suspend or limit use of the Cloud Service if continued use may result in material harm to the Cloud Service or its users. Qualtrics will promptly notify Customer of the suspension or limitation. Qualtrics will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.

2.6 Third Party Web Services.

The Cloud Service may include integrations with web services made available by third parties (other than Qualtrics' Affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Service and the Agreement does not apply to them.

2.7 Mobile Access to Cloud Service.

If applicable, Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app store. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

3. QUALTRICS RESPONSIBILITIES

3.1 Provisioning.

Qualtrics provides access to the Cloud Service as described in the Agreement.

3.2 Support.

Qualtrics provides support for the Cloud Service as referenced in the Order Form.

3.3 Security.

Qualtrics will implement and maintain appropriate technical and organizational measures to protect the personal data processed by Qualtrics as part of the Cloud Service as described in the Data Processing Agreement attached hereto as **Exhibit A ("DPA")** for Cloud Services incorporated into the Order Form in compliance with applicable data protection law.

3.4 Modifications.

- (a) The Cloud Service and Qualtrics Policies may be modified by Qualtrics. Qualtrics will inform Customer of modifications by email, the support portal, release notes, Documentation or the Cloud Service. The information will be delivered by email if the modification is not solely an enhancement. Modifications may include optional new features for the Cloud Service, which Customer may use subject to the then-current Supplement and Documentation.
- (b) If Customer establishes that a modification is not solely an enhancement and materially reduces the Cloud Service, Customer may terminate its subscriptions to the affected Cloud Service by providing written notice to Qualtrics within thirty days after receipt of Qualtrics' informational notice.

3.5 Analyses.

Qualtrics or Qualtrics' Affiliates may create analyses utilizing, in part, Customer Data and information derived from Customer's use of the Cloud Service and Consulting Services, as set forth below ("**Analyses**"). Analyses will anonymize and aggregate information and will be treated as Cloud Materials.

Unless otherwise agreed, personal data contained in Customer Data is only used to provide the Cloud Service and Consulting Services. Analyses may be used for the following purposes:

- a) product improvement (in particular, product features and functionality, workflows and user interfaces) and development of new Qualtrics products and services,
- b) improving resource allocation and support,
- c) internal demand planning,
- d) training and developing machine learning algorithms,
- e) improving product performance,
- f) verification of security and data integrity
- g) identification of industry trends and developments, creation of indices and anonymous benchmarking

4. CUSTOMER AND PERSONAL DATA

4.1 Customer Data.

Customer is responsible for the Customer Data and entering it into the Cloud Service. Customer grants to Qualtrics (including Qualtrics' Affiliates and subcontractors) a nonexclusive right to process Customer Data solely to provide and support the Cloud Service.

4.2 Personal Data.

Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws.

4.3 Security.

Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Customer will not conduct or authorize penetration tests of the Cloud Service without advance approval from Qualtrics.

4.4 Access to Customer Data.

- (a) During the Subscription Term, Customer can access its Customer Data at any time. Customer may export and retrieve its Customer Data in a standard format. Export and retrieval may be subject to technical limitations, in which case Qualtrics and Customer will find a reasonable method to allow Customer access to Customer Data.
- (b) Before the Subscription Term expires, if available, Customer may use Qualtrics' self-service export tools (as available) to perform a final export of Customer Data from the Cloud Service. Alternatively, Customer may request data export through support ticket.

- (c) At the end of the Agreement, Qualtrics will delete the Customer Data remaining on servers hosting the Cloud Service unless applicable law requires retention. Retained data is subject to the confidentiality provisions of the Agreement.
- (d) In the event of third party legal proceedings relating to the Customer Data, Qualtrics will cooperate with Customer and comply with applicable law (both at Customer's expense) with respect to handling of the Customer Data.

5. FEES AND TAXES

5.1 Fees and Payment.

Customer will pay fees as stated in the Order Form. After prior written notice, Qualtrics may suspend Customer's use of the Cloud Service until payment is made. Customer cannot withhold, reduce or set-off fees owed nor reduce Usage Metrics during the Subscription Term. All Order Forms are non-cancellable and fees non-refundable. Customer shall pay all fees associated with any services purchased in an Order Form within Net 45 days of invoice.

5.2 Taxes.

Fees and other charges imposed under an Order Form will not include taxes, all of which will be for Customer's account. Customer is responsible for all taxes, other than Qualtrics' income and payroll taxes. Notwithstanding the foregoing, Customer will not be responsible for taxes from which they are exempt on the condition that Customer must provide to Qualtrics any direct pay permits or valid tax-exempt certificates prior to signing an Order Form. If Qualtrics is required to pay taxes (other than its income and payroll taxes), Customer will reimburse Qualtrics for those amounts and indemnify Qualtrics for any taxes and related costs paid or payable by Qualtrics attributable to those taxes.

6. TERM AND TERMINATION

6.1 Term.

The Subscription Term is as stated in the Order Form.

6.2 Termination.

6.2.1 A party may terminate the Agreement:

- (a) upon thirty days written notice of the other party's material breach unless the breach is cured during that thirty day period,
- (b) as permitted under Sections 3.4(b), 7.3(b), 7.4(c), or 8.1(c) (with termination effective thirty days after receipt of notice in each of these cases), or
- (c) immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 12.6.

6.2.2 Customer's payment obligation for each contract year of the Agreement is conditioned upon the availability and appropriation of funds, subject to this Section 6. If funds are not appropriated to support continuation of performance in a subsequent fiscal year period, Customer shall have the right to terminate the Agreement at the end of the then-current contract year with prior written notice to Qualtrics at least 30 days prior to the start of the next contract year (a "Non-Appropriation Termination"). In the event of a Non-Appropriation Termination, Customer will not be entitled to any refund of any prepaid fees and shall be responsible for payment of amounts incurred up to the date of such termination.

6.3 Refund and Payments.

For termination by Customer or an 8.1(c) termination, Customer will be entitled to:

- (a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination, and
- a release from the obligation to pay fees due for periods after the effective date of termination.

6.4 Effect of Expiration or Termination

Upon the effective date of expiration or termination of the Agreement:

- (a) Customer's right to use the Cloud Service and all Qualtrics Confidential Information will end,
- (b) Confidential Information of the disclosing party will be returned or destroyed as required by the Agreement, and

- (c) termination or expiration of the Agreement does not affect other agreements between the parties.

6.5 Survival.

Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, and 12 will survive the expiration or termination of the Agreement.

7. WARRANTIES

7.1 Compliance with Law.

7.1.1 Qualtrics warrants to Customer that:

- (a) It will perform all services in a professional and competent manner using properly qualified and trained personnel;
- (b) It shall use commercially reasonable efforts to ensure the Cloud Service, and any component thereof, will materially conform to Qualtrics' Documentation for a period of twelve (12) months from delivery.
- (c) It will implement appropriate technical and organizational security measures designed to protect Customer Data against theft, unauthorized access, copying, and distribution;
- (d) It has not been sanctioned, excluded or debarred under Medicare, Medicaid, or any other state or federal program. Qualtrics agrees to report immediately, with relevant factual detail, to Customer any sanction, exclusion or debarment of Qualtrics or of any of its owners, officers, directors, employees, or agents under Medicare, Medicaid, or any other state or federal program.

7.1.2 Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:

- (a) in the case of Qualtrics, the operation of Qualtrics' business as it relates to the Cloud Service, and
- (b) in the case of Customer, the Customer Data and Customer's use of the Cloud Service.

7.2 Good Industry Practices.

Qualtrics warrants that it will provide the Cloud Service:

- (a) in substantial conformance with the Documentation; and
- (b) with the degree of skill and care reasonably expected from a skilled and experienced global supplier of services substantially similar to the nature and complexity of the Cloud Service.

7.3 Remedy.

Customer's sole and exclusive remedies and Qualtrics' entire liability for breach of the warranty under Section 7.2 will be:

- (a) the re-performance of the deficient Cloud Service, and
- (b) if Qualtrics fails to re-perform, Customer may terminate its subscription for the affected Cloud Service. Any termination must occur within three months of Qualtrics' failure to re-perform.

7.4 System Availability.

- (a) Qualtrics warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable service level agreement or Supplement ("SLA").
- (b) Customer's sole and exclusive remedy for Qualtrics' breach of the SLA is the issuance of a credit in the amount described in the SLA. Customer will follow Qualtrics' posted credit claim procedure. When the validity of the service credit is confirmed by Qualtrics in writing (email permitted), Customer may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.
- (c) In the event Qualtrics fails to meet the SLA (i) for four consecutive months, or (ii) for five or more months during any twelve months period, or (iii) at a system availability level of at least 95% for one calendar month, Customer may terminate its subscriptions for the affected Cloud Service by providing Qualtrics with written notice within thirty days after the failure.

7.5 Warranty Exclusions.

The warranties in Sections 7.2 and 7.4 will not apply if:

- (a) the Cloud Service is not used in accordance with the Agreement or Documentation,
- (b) any non-conformity is caused by Customer, or by any product or service not provided by Qualtrics, or
- (c) the Cloud Service was provided for no fee.

7.6 Disclaimer.

Except as expressly provided in the Agreement, each party expressly disclaims all other representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of Qualtrics or product roadmaps in obtaining subscriptions for any Cloud Service.

8. THIRD PARTY CLAIMS

8.1 Claims Brought Against Customer.

- (a) Qualtrics will defend Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's and its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright, or trade secret right. Qualtrics will indemnify Customer against all damages finally awarded against Customer (or the amount of any settlement Qualtrics enters into) with respect to these claims.
- (b) Qualtrics' obligations under Section 8.1 will not apply if the claim results from (i) Customer's breach of Section 2, (ii) use of the Cloud Service in conjunction with any product or service not provided by Qualtrics, or (iii) use of the Cloud Service provided for no fee.
- (c) In the event a claim is made or likely to be made, Qualtrics may (i) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement, or (ii) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality. If these options are not reasonably available, Qualtrics or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other.

8.2 Claims Brought Against Qualtrics.

Customer will defend Qualtrics against claims brought against Qualtrics and its Affiliates and subcontractors by any third party related to Customer Data.

Customer will indemnify Qualtrics against all damages finally awarded against Qualtrics and its Affiliates and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims. Notwithstanding the foregoing, Customer shall only be obligated to defend and indemnify Qualtrics to the extent not prohibited by applicable law.

8.3 Third Party Claim Procedure.

- (a) The party against whom a third party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.
- (b) To the extent not prohibited by law, the party that is obligated to defend a claim will have the right to fully control the defense.
- (c) Any settlement of a claim shall require mutual approval of the parties and will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

8.4 Exclusive Remedy.

The provisions of Section 8 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party intellectual property rights.

9. LIMITATION OF LIABILITY

9.1 Unlimited Liability.

To the extent not prohibited by applicable law, neither party will exclude or limit its liability for damages resulting from:

- (a) the parties' obligations under Section 8.1(a) and 8.2,
- (b) unauthorized use or disclosure of Confidential Information,
- (c) either party's breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data,
- (d) death or bodily injury arising from either party's gross negligence or willful misconduct,
- (e) any failure by Customer to pay any fees due under the Agreement, or
- (f) claims brought against Qualtrics and its Affiliates and subcontractors by any third party related to Customer data.

9.2 Liability Cap.

Subject to Sections 9.1 and 9.3, and to the extent not prohibited by applicable law, the maximum aggregate liability of either party (or its respective Affiliates or Qualtrics' subcontractors) to the other or any other person or entity for all events (or series of connected events) arising in any twelve month period will not exceed the annual subscription fees paid for the applicable Cloud Service directly causing the damage for that twelve month period. Any "twelve month period" commences on the Subscription Term start date or any of its yearly anniversaries.

9.3 Exclusion of Damages.

Subject to Section 9.1, and to the extent not prohibited by applicable law:

- (a) neither party (nor its respective Affiliates or Qualtrics' subcontractors) will be liable to the other party for any special, incidental, consequential, or indirect damages, loss of good will or business profits, work stoppage or for exemplary or punitive damages, and
- (b) Qualtrics will not be liable for any damages caused by any Cloud Service provided for no fee.

9.4 Risk Allocation.

The Agreement allocates the risks between Qualtrics and Customer. The fees for the Cloud Service and Consulting Services reflect this allocation of risk and limitations of liability.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 QUALTRICS Ownership.

Qualtrics, Qualtrics' Affiliates or licensors own all intellectual property rights in and related to the Cloud Service, Cloud Materials, Documentation, Consulting Services, design contributions, related knowledge or processes, and any derivative works of them. All rights not expressly granted to Customer are reserved to Qualtrics and its licensors.

10.2 Customer Ownership.

Customer retains all rights in and related to the Customer Data. Qualtrics may use Customer-provided trademarks solely to provide and support the Cloud Service.

10.3 Non-Assertion of Rights.

Customer covenants, on behalf of itself and its successors and assigns, not to assert against Qualtrics and its Affiliates or licensors, any rights, or any claims of any rights, in any Cloud Service, Cloud Materials, Documentation, or Consulting Services.

11. CONFIDENTIALITY

11.1 Use of Confidential Information.

- (a) The receiving party will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any Confidential Information of the disclosing party to any person other than its personnel, representatives or Authorized Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in Section 11.. This Agreement and amendments thereto are public records subject to the California Public Records Act. .
- (b) Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.
- (c) In the event of legal proceedings relating to the Confidential Information, the receiving party will cooperate with the disclosing party and comply with applicable law (all at disclosing party's expense) with respect to handling of the Confidential Information.

11.2 Exceptions.

The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

- (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
- (b) is generally available to the public without breach of the Agreement by the receiving party,
- (c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions,
- (d) the disclosing party agrees in writing is free of confidentiality restrictions, or
- (e) is subject to disclosure pursuant to the California Public Records Act.

11.3 Publicity.

Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Customer agrees that Qualtrics may use Customer's name in customer listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of Qualtrics' marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHIRE participation

12. INSURANCE.

During the term of the Agreement, Qualtrics, using commercially reasonable efforts, shall maintain the following insurance policies with insurer(s) having an AM Best Rating of A- or better: (a) commercial general liability with a limit of \$1,000,000 per occurrence and in general aggregate; (b) commercial automobile liability with a combined single limit of \$1,000,000 per occurrence; (c) workers' compensation in compliance with California statutory requirements; (d) employer's liability with limits of \$1,000,000 each accident, \$1,000,000 by disease each employee and \$1,000,000 by disease policy limit; (e) excess\umbrella liability with a limit of \$5,000,000 per occurrence and in the aggregate with respect to coverage required in (a) and (b); and (f) technology professional liability with a limit of \$5,000,000 per claim and in the aggregate. Following execution of the Agreement and upon request of Customer, Qualtrics shall deliver or make available for download a blanket certificate of insurance evidencing existence of the required coverage . Qualtrics, its insurer(s) or broker(s) shall endeavor to provide Customer thirty (30) days advance written notice in event of cancellation of policies required herein. None of the requirements contained herein as to types or limits or Customer's approval of insurance coverage to be maintained by Qualtrics are intended to, and shall not in any manner, limit, qualify or quantify the liabilities and obligations assumed by Qualtrics under the Agreement

13. MISCELLANEOUS

13.1 Severability.

If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

13.2 No Waiver.

A waiver of any breach of the Agreement is not deemed a waiver of any other breach.

13.3 Electronic Signature.

Electronic signatures that comply with applicable law are deemed original signatures.

13.4 Regulatory Matters.

Qualtrics Confidential Information is subject to export control laws of various countries, including the laws of the United States. Customer will not submit Qualtrics Confidential Information to any government agency for licensing consideration or other regulatory approval, and will not export Qualtrics Confidential Information to countries, persons or entities if prohibited by export laws.

13.5 Notices.

All notices will be in writing and given when delivered to the address set forth in an Order Form with copy to the legal department Notices by Qualtrics relating to the operation or support of the Cloud Service and those under Sections 3.4 and 5.1 may be in the form of an electronic notice to identified in the Order Form.

13.6 Assignment.

13.7 Neither party may assign this Agreement or any Order Form, by operation of law or otherwise, without the prior written consent (not to be unreasonably withheld or delayed) of the other party.. Qualtrics may not assign the Agreement to Qualtrics Affiliates, without Customer's written consent, which shall not be withheld or delayed unreasonably.Subcontracting.

Qualtrics may subcontract parts of the Cloud Service or Consulting Services to third parties,. Notwithstanding any such subcontract, Qualtrics shall continue to be liable for the performance of all requirements of this Agreement. Qualtrics is responsible for breaches of the Agreement caused by its subcontractors.

13.8 Relationship of the Parties.

The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by the Agreement.

13.9 Force Majeure.

Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.

13.10 Governing Law.

The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement.

13.11 Entire Agreement.

The Agreement constitutes the complete and exclusive statement of the agreement between Qualtrics and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing signed by both parties, except as permitted under Section 3.4. An Agreement will prevail over terms and conditions of any Customer-issued purchase order, which will have no force and effect, even if Qualtrics accepts or does not otherwise reject the purchase order.

13.12 Data Processing Agreement.

Where Customer is processing personal data using the Services, the DPA shall govern the processing of such personal data.

Glossary

- 1.1 "Affiliate"** of a party means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
- 1.2 "Agreement"** means an Order Form and documents incorporated into an Order Form.
- 1.3 "Authorized User"** means any individual to whom Customer grants access authorization to use the Cloud Service that is an employee, agent, contractor or representative of
- (a) Customer,
 - (b) Customer's Affiliates, and/or
 - (c) Customer's and Customer's Affiliates' Business Partners.
- 1.4 "Business Partner"** means a legal entity that requires use of a Cloud Service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer.
- 1.5 "Cloud Service"** means any distinct, subscription-based, hosted, supported and operated on- demand solution provided by Qualtrics under an Order Form.
- 1.6 "Cloud Materials"** mean any materials provided or developed by Qualtrics (independently or with Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Consulting Services to Customer. Cloud Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service.
- 1.7 "Confidential Information"** means
- (a) with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, (iii) Customer implementation plans, and/or (iv) Customer financial information, and
 - (b) with respect to Qualtrics: (i) the Cloud Service, Documentation, Cloud Materials and analyses under Section 3.5, and (ii) information regarding Qualtrics research and development, product offerings, pricing and availability.
 - (c) Confidential Information of either Qualtrics or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.
- 1.8 "Consulting Services"** means professional services, such as implementation, configuration, custom development and training, performed by Qualtrics' employees or subcontractors as described in any Order Form and which are governed by the Supplement for Consulting Services or similar agreement.
- 1.9 "Customer Data"** means any content, materials, data and information that Authorized Users enter into the production system of a Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include Qualtrics' Confidential Information.
- 1.10 "Documentation"** means Qualtrics' then-current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Cloud Service which is made available to Customer with the Cloud Service.
- 1.11 "Order Form"** means the ordering document for a Cloud Service that references the GTC.
- 1.12 "Qualtrics Policies"** means the operational guidelines and policies applied by Qualtrics to provide and support the Cloud Service as incorporated in an Order Form.
- 1.13 "Subscription Term"** means the term of a Cloud Service subscription identified in the applicable Order Form, including all renewals.
- 1.14 "Supplement"** means as applicable, the supplemental terms and conditions that apply to the Cloud Service and that are incorporated in an Order Form.
- 1.15 "Usage Metric"** means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.

THE PARTIES ENTER INTO THIS AGREEMENT AS OF THE LAST SIGNATURE DATE BELOW. THE EFFECTIVE DATE OF THE GTC IS SEPTEMBER 1, 2022

CUSTOMER: COUNT OF MONTEREY	QUALTRICS, LLC
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

DocuSigned by:
Approved as to Form:
Stacy Saetta Stacy Saetta
C0ECÉ1B99F444A9...
Chief Deputy County Counsel Dated: 8/22/2022 | 1:38 PM PDT

DocuSigned by:
Approved as to Fiscal Provisions:
Gary Giboney Gary Giboney
D3834BFEC1D8449...
Chief Deputy Auditor Controller Dated: 8/22/2022 | 1:42 PM PDT

**Exhibit A
Data Processing Agreement**

PERSONAL DATA PROCESSING AGREEMENT FOR QUALTRICS CLOUD SERVICES

This Data Processing Addendum ("DPA") is entered into

BETWEEN

(1) Customer; and

(2) Qualtrics.

1. DEFINITIONS

- 1.1. **"Controller"** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of Personal Data; for the purposes of this DPA, where Customer acts as processor for another controller, it shall in relation to Qualtrics be deemed as additional and independent Controller with the respective controller rights and obligations under this DPA.
- 1.2. **"Data Protection Law"** means the applicable legislation protecting the fundamental rights and freedoms of persons and their right to privacy with regard to the processing of Personal Data under the Agreement.
- 1.3. **"Data Subject"** means an identified or identifiable natural person as defined by Data Protection Law.
- 1.4. **"EEA"** means the European Economic Area, namely the European Union Member States along with Iceland, Liechtenstein and Norway.
- 1.5. **"GDPR"** means the General Data Protection Regulation 2016/679.
- 1.6. **"New SCC Relevant Transfer"** means a transfer (or an onward transfer) to a Third Country of Personal Data that is either subject to GDPR or to applicable Data Protection Law and where any required adequacy means under GDPR or applicable Data Protection Law can be met by entering into the New Standard Contractual Clauses.
- 1.7. **"New Standard Contractual Clauses"** means the unchanged standard contractual clauses, published by the European Commission, reference 2021/914 or any subsequent final version thereof which shall automatically apply. To avoid doubt Modules 2 and 3 shall apply as set out in Section 8.
- 1.8. **"Personal Data"** means any information relating to a Data Subject which is protected under Data Protection Law. For the purposes of the DPA, it includes only personal data which is:
 - a) entered by Customer or its Authorized Users into or derived from their use of the Cloud Service; or
 - b) supplied to or accessed by Qualtrics or its Subprocessors in order to provide support under the Agreement. Personal Data is a sub-set of Customer Data (as defined under the Agreement).
- 1.9. **"Personal Data Breach"** means a confirmed:
 - a) accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or unauthorized third-party access to Personal Data; or
 - b) similar incident involving Personal Data, in each case for which a Controller is required under Data Protection Law to provide notice to competent data protection authorities or Data Subjects.
- 1.10. **"Processor"** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, be it directly as processor of a controller or indirectly as subprocessor of a processor which processes personal data on behalf of the controller.
- 1.11. **"SAP"** means SAP SE, Qualtrics parent company.
- 1.12. **"Schedule"** means the numbered Appendix with respect to the Standard Contractual Clauses (2010) and the numbered Annex with respect to the New Standard Contractual Clauses.
- 1.13. **"Standard Contractual Clauses (2010)"** means the Standard Contractual Clauses (processors) published by the European Commission, reference 2010/87/EU.
- 1.14. **"Subprocessor"** or **"sub-processor"** means Qualtrics Affiliates, SAP, SAP Affiliates and third parties engaged by Qualtrics, Qualtrics' Affiliates in connection with the Cloud Service and which process Personal Data in accordance with this DPA.

- 1.15. **“Technical and Organizational Measures”** means the technical and organizational measures for the relevant Cloud Service set out in Schedule 2.
- 1.16. **“Third Country”** means any country, organization or territory not acknowledged by the European Union under Article 45 of GDPR as a safe country with an adequate level of data protection.

2. BACKGROUND

2.1. Purpose and Application

- 2.1.1. This document (“DPA”) is incorporated into the Agreement and forms part of a written (including in electronic form) contract between Qualtrics and Customer.
- 2.1.2. This DPA applies to Personal Data processed by Qualtrics and its Subprocessors in connection with its provision of the Cloud Service.
- 2.1.3. This DPA does not apply to non-production environments of the Cloud Service if such environments are made available by Qualtrics. Customer shall not store Personal Data in such environments.

2.2. Structure

Schedules 1 and 2 are incorporated into and form part of this DPA. They set out the agreed subject-matter, the nature and purpose of the processing, the type of Personal Data, categories of data subjects (Schedule 1) and the applicable Technical and Organizational Measures (Schedule 2).

2.3. Governance

- 2.3.1. Qualtrics acts as a Processor and Customer and those entities that it permits to use the Cloud Service act as Controllers under the DPA.
- 2.3.2. Customer acts as a single point of contact and shall obtain any relevant authorizations, consents and permissions for the processing of Personal Data in accordance with this DPA, including, where applicable approval by Controllers to use Qualtrics as a Processor. Where authorizations, consent, instructions or permissions are provided by Customer these are provided not only on behalf of the Customer but also on behalf of any other Controller using the Cloud Service. Where Qualtrics informs or gives notice to Customer, such information or notice is deemed received by those Controllers permitted by Customer to use the Cloud Service. Customer shall forward such information and notices to the relevant Controllers.

3. SECURITY OF PROCESSING

3.1. Applicability of the Technical and Organizational Measures

Qualtrics has implemented and will apply the Technical and Organizational Measures. Customer has reviewed such measures and agrees that as to the Cloud Service selected by Customer in the Order Form the measures are appropriate taking into account the state of the art, the costs of implementation, nature, scope, context and purposes of the processing of Personal Data.

3.2. Changes

- 3.2.1. Qualtrics applies the Technical and Organizational Measures to Qualtrics’ entire customer base hosted out of the same data center or receiving the same Cloud Service. Qualtrics may change the Technical and Organizational Measures at any time without notice so long as it maintains a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data.
- 3.2.2. Qualtrics will publish updated versions of the Technical and Organizational Measures at www.qualtrics.com/terms-of-service.

4. QUALTRICS OBLIGATIONS

4.1. Instructions from Customer

Qualtrics will process Personal Data only in accordance with documented instructions from Customer. The Agreement (including this DPA) constitutes such documented initial instructions and each use of the Cloud Service then constitutes further instructions. Qualtrics will use reasonable efforts to follow any other Customer instructions, as long as they are required by Data Protection Law, technically feasible and do not require changes to the Cloud Service. If any of the before-mentioned exceptions apply, or Qualtrics otherwise cannot comply with an instruction or is of the opinion that an instruction infringes Data Protection Law, Qualtrics will immediately notify Customer (email permitted).

4.2. Processing on Legal Requirement

Qualtrics may also process Personal Data where required to do so by applicable law. In such a case, Qualtrics shall inform Customer of that legal requirement before processing unless that law prohibits such information on important grounds of public interest.

4.3. Personnel

To process Personal Data, Qualtrics and its Subprocessors shall only grant access to authorized personnel who have committed themselves to confidentiality. Qualtrics and its Subprocessors will regularly train personnel having access to Personal Data in applicable data security and data privacy measures.

4.4. Cooperation

- 4.4.1. At Customer's request, Qualtrics will reasonably cooperate with Customer and Controllers in dealing with requests from Data Subjects or regulatory authorities regarding Qualtrics' processing of Personal Data or any Personal Data Breach.
- 4.4.2. If Qualtrics receives a request from a Data Subject in relation to the Personal Data processing hereunder, Qualtrics will promptly notify Customer (where the Data Subject has provided information to identify the Customer) via e-mail and shall not respond to such request itself but instead ask the Data Subject to redirect its request to Customer.
- 4.4.3. In the event of a dispute with a Data Subject as it relates to Qualtrics' processing of Personal Data under this DPA, the Parties shall keep each other informed and, where appropriate, reasonably cooperate with the aim of resolving the dispute amicably with the Data Subject.
- 4.4.4. Qualtrics shall provide functionality for production systems that supports Customer's ability to correct, delete or anonymize Personal Data from a Cloud Service, or restrict its processing in line with Data Protection Law. Where such functionality is not provided, Qualtrics will correct, delete or anonymize any Personal Data, or restrict its processing, in accordance with the Customer's instruction and Data Protection Law.

4.5. Personal Data Breach Notification

Qualtrics will notify Customer without undue delay after becoming aware of any Personal Data Breach and provide reasonable information in its possession to assist Customer to meet Customer's obligations to report a Personal Data Breach as required under Data Protection Law. Qualtrics may provide such information in phases as it becomes available. Such notification shall not be interpreted or construed as an admission of fault or liability by Qualtrics.

4.6. Data Protection Impact Assessment

If, pursuant to Data Protection Law, Customer (or its Controllers) are required to perform a data protection impact assessment or prior consultation with a regulator, at Customer's request, Qualtrics will provide such documents as are generally available for the Cloud Service (for example, this DPA, the Agreement, audit reports and certifications). Any additional assistance shall be mutually agreed between the Parties.

5. DATA EXPORT AND DELETION

5.1. Export and Retrieval by Customer

During the Subscription Term and subject to the Agreement, Customer can access its Personal Data at any time. Customer may export and retrieve its Personal Data in a standard format. Export and retrieval may be subject to technical limitations, in which case Qualtrics and Customer will find a reasonable method to allow Customer access to Personal Data.

5.2. Deletion

Before the Subscription Term expires, Customer may use Qualtrics' self-service export tools (as available) to perform a final export of Personal Data from the Cloud Service (which shall constitute a "return" of Personal Data). At the end of the Subscription Term, Customer hereby instructs Qualtrics to delete the Personal Data remaining on servers hosting the Cloud Service within a reasonable time period in line with Data Protection Law (not to exceed 6 months) unless applicable law requires retention.

6. CERTIFICATIONS AND AUDITS

6.1. Customer Audit

Customer or its independent third party auditor reasonably acceptable to Qualtrics (which shall not include any third party auditors who are either a competitor of Qualtrics or not suitably qualified or independent) may audit Qualtrics' control environment and security practices relevant to Personal Data processed by Qualtrics only if:

- a) Qualtrics has not provided sufficient evidence of its compliance with the Technical and Organizational Measures that protect the production systems of the Cloud Service through providing either: (i) a certification as to compliance with ISO 27001 or other standards (scope as defined in the certificate); or (ii) a valid ISAE3402 or ISAE3000 or other SOC1-3 attestation report. Upon Customer's request audit reports or ISO certifications are available through the third party auditor or Qualtrics;
- b) a Personal Data Breach has occurred;
- c) an audit is formally requested by Customer's data protection authority; or
- d) provided under mandatory Data Protection Law conferring Customer a direct audit right and provided that Customer shall only audit once in any 12 month period unless mandatory Data Protection Law requires more frequent audits.

6.2. Other Controller Audit

Any other Controller may assume Customer's rights under Section 6.1 only if it applies directly to the Controller and such audit is permitted and coordinated by Customer. Customer shall use all reasonable means to combine audits of multiple other Controllers to avoid multiple audits unless the audit must be undertaken by the other Controller itself under Data Protection Law. If several Controllers whose Personal Data is processed by Qualtrics on the basis of the Agreement require an audit, Customer shall use all reasonable means to combine the audits and to avoid multiple audits.

6.3. Scope of Audit

Customer shall provide at least 60 days advance notice of any audit unless mandatory Data Protection Law or a competent data protection authority requires shorter notice. The frequency and scope of any audits shall be mutually agreed between the parties acting reasonably and in good faith. Customer audits shall be limited in time to a maximum of 3 business days. Beyond such restrictions, the parties will use current certifications or other audit reports to avoid or minimize repetitive audits. Customer shall provide the results of any audit to Qualtrics.

6.4. Cost of Audits

Customer shall bear the costs of any audit unless such audit reveals a material breach by Qualtrics of this DPA, then Qualtrics shall bear its own expenses of an audit. If an audit determines that Qualtrics has breached its obligations under the DPA, Qualtrics will promptly remedy the breach at its own cost.

7. SUBPROCESSORS

7.1. Permitted Use

Qualtrics is granted a general authorization to subcontract the processing of Personal Data to Subprocessors, provided that:

- a) Qualtrics or Qualtrics affiliates on its behalf shall engage Subprocessors under a written (including in electronic form) contract consistent with the terms of this DPA in relation to the Subprocessor's processing of Personal Data. Qualtrics shall be liable for any breaches by the Subprocessor in accordance with the terms of this Agreement;
- b) Qualtrics will evaluate the security, privacy and confidentiality practices of a Subprocessor prior to selection to establish that it is capable of providing the level of protection of Personal Data required by this DPA; and
- c) Qualtrics' list of Subprocessors in place on the effective date of the Agreement is published by Qualtrics at www.qualtrics.com/subprocessor-list or Qualtrics will make it available to Customer upon request, including the name, address and role of each Subprocessor Qualtrics uses to provide the Cloud Service.

7.2. New Subprocessors

Qualtrics' use of Subprocessors is at its discretion, provided that:

- a) Qualtrics will inform Customer in advance (by email or by posting on the Cloud Service) of any intended additions or replacements to the list of Subprocessors including name, address and role of the new Subprocessor; and
- b) Customer may object to such changes as set out in Section 7.3.

7.3. Objections to New Subprocessors

- 7.3.1. If Customer has a legitimate reason under Data Protection Law to object to the new Subprocessors' processing of Personal Data, Customer may terminate the Agreement (limited to the Cloud Service for which the new Subprocessor is intended to be used) on written notice to Qualtrics. Such termination shall take effect at the time determined by the Customer which shall be no later than 30 days from the date of Qualtrics' notice to Customer informing Customer of the new Subprocessor. If Customer does not terminate within this 30 day period, Customer is deemed to have accepted the new Subprocessor.
- 7.3.2. Within the 30 day period from the date of Qualtrics' notice to Customer informing Customer of the new Subprocessor, Customer may request that the parties discuss in good faith a resolution to the objection. Such discussions shall not extend the period for termination and do not affect Qualtrics' right to use the new Subprocessor(s) after the 30 day period.
- 7.3.3. Any termination under this Section 7.3 shall be deemed to be without fault by either party and shall be subject to the terms of the Agreement.

7.4. Emergency Replacement

Qualtrics may replace a Subprocessor without advance notice where the reason for the change is outside of Qualtrics' reasonable control and prompt replacement is required for security or other urgent reasons. In this case, Qualtrics will inform Customer of the replacement Subprocessor as soon as possible following its appointment. Section 7.2 applies accordingly.

8. INTERNATIONAL PROCESSING

8.1. Conditions for International Processing

Qualtrics shall be entitled to process Personal Data, including by using Subprocessors, in accordance with this DPA outside the country in which the Customer is located as permitted under Data Protection Law.

8.2. Applicability of the Standard Contractual Clauses (2010)

- 8.2.1. Where, for the period up to and including 26 September 2021, Personal Data of a Controller that is subject to GDPR is processed in a Third Country, or where Personal Data of a Swiss or United Kingdom based Controller or another Controller is processed in a Third Country and such international processing requires an adequacy means under the laws of the country of the Controller and the required adequacy means can be met by entering into Standard Contractual Clauses (2010), then:
 - a) Qualtrics and Customer enter into the Standard Contractual Clauses (2010);
 - b) Customer joins the Standard Contractual Clauses (2010) entered into by Qualtrics or Qualtrics SE and the Subprocessor as an independent owner of rights and obligations; or
 - c) Other Controllers whose use of the Cloud Services has been authorized by Customer under the Agreement may also enter into Standard Contractual Clauses (2010) with Qualtrics or the relevant Subprocessors in the same manner as Customer in accordance with Section 8.2.1 a) and b) above. In such case, Customer will enter into the Standard Contractual Clauses (2010) on behalf of the other Controllers.
- 8.2.2. The Standard Contractual Clauses (2010) shall be governed by the law of the country in which the relevant Controller is established.
- 8.2.3. Where applicable Data Protection Law adopts the New Standard Contractual Clauses as meeting any required adequacy means as an alternative or update to the Standard Contractual Clauses (2010) then the New Standard Contractual Clauses shall apply in accordance with Section 8.3.

8.3. Amending the Agreement for International Processing

The Standard Contractual Clauses and the New Standard Contractual Clauses have been removed from the Agreement. In the event Customer (i) chooses to collect Personal Data of an EEA or Swiss based Controller which is processed in a country outside the EEA, Switzerland and any country, organization or territory acknowledged by the European Union as a safe country with an adequate level of data protection under Art. 45 GDPR, or (ii) collects Personal Data of another Controller which is processed internationally and such international processing requires an adequacy means under the laws of the country of the Controller, Customer shall provide prior notification to Qualtrics and the parties shall amend the Agreement as necessary. Customer's failure to provide notification to Qualtrics in advance of collection of such personal data is a material breach and Qualtrics may choose to terminate the Agreement.

9. DOCUMENTATION; RECORDS OF PROCESSING

- 9.1. Each party is responsible for its compliance with its documentation requirements, in particular maintaining records of processing where required under Data Protection Law. Each party shall reasonably assist the other party in its documentation requirements, including providing the information the other party needs from it in a manner reasonably requested by the other party (such as using an electronic system), in order to enable the other party to comply with any obligations relating to maintaining records of processing.

Schedule 1 Description of the Processing

This Schedule 1 applies to describe the Processing of Personal Data for the purposes of applicable Data Protection Law.

1. A. LIST OF PARTIES

1.1. Data Exporter

The data exporter is the Customer who subscribed to a Cloud Service that allows Authorized Users to enter, amend, use, delete or otherwise process Personal Data. Where the Customer allows other Controllers to also use the Cloud Service, these other Controllers are also data exporters.

1.2. Data Importer

Qualtrics and its Subprocessors that provide and support the Cloud Service are data importers.

2. B. DESCRIPTION OF TRANSFER

2.1. Data Subjects

Unless provided otherwise by the data exporter, transferred Personal Data relates to the following categories of Data Subjects: employees, contractors, business partners or other individuals having Personal Data stored in the Cloud Service, transmitted to, made available to, accessed or otherwise processed by the data importer.

2.2. Data Categories

The transferred Personal Data concerns the following categories of data: Customer determines the categories of data per Cloud Service subscribed. Customer can configure the data fields during implementation of the Cloud Service or as otherwise provided by the Cloud Service. The transferred Personal Data typically relates to the following categories of data: name, phone numbers, e-mail address, address data, system access / usage / authorization data, company name, contract data, invoice data, plus any application-specific data that Authorized Users enter into the Cloud Service.

2.3. Special Data Categories (if agreed)

2.3.1. The transferred Personal Data may comprise special categories of personal data set out in the Agreement ("Sensitive Data"). Qualtrics has taken Technical and Organizational Measures as set out in Schedule 2 to ensure a level of security appropriate to protect also Sensitive Data.

2.3.2. The transfer of Sensitive Data may trigger the application of the following additional restrictions or safeguards if necessary to take into consideration the nature of the data and the risk of varying likelihood and severity for the rights and freedoms of natural persons (if applicable):

- a) training of personnel;
- b) encryption of data in transit and at rest;
- c) system access logging and general data access logging.

2.3.3. In addition, the Cloud Services provide measures for handling of Sensitive Data as described in the Documentation.

2.4. Purposes of the data transfer and further processing; Nature of the processing

2.4.1. The transferred Personal Data is subject to the following basic processing activities:

- a) use of Personal Data to set up, operate, monitor and provide the Cloud Service (including operational and technical support);
- b) continuous improvement of service features and functionalities provided as part of the Cloud Service including automation, transaction processing and machine learning;
- c) provision of professional services;
- d) communication to Authorized Users;
- e) storage of Personal Data in dedicated data centers (multi-tenant architecture);
- f) release, development and upload of any fixes or upgrades to the Cloud Service;
- g) back up and restoration of Personal Data stored in the Cloud Service;
- h) computer processing of Personal Data, including data transmission, data retrieval, data access;
- i) network access to allow Personal Data transfer;

- j) monitoring, troubleshooting and administering the underlying Cloud Service infrastructure and database;
- k) security monitoring, network-based intrusion detection support, penetration testing; and
- l) execution of instructions of Customer in accordance with the Agreement.

2.4.2. The purpose of the transfer is to provide and support the Cloud Service. Qualtrics and its Subprocessors may support the Cloud Service data centers remotely. Qualtrics and its Subprocessors provide support when a Customer submits a support ticket as further set out in the Agreement.

2.5. Additional description:

- 2.5.1. The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).
Transfers shall be made on a continuous basis.
- 2.5.2. The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period.
Personal Data shall be retained for the duration of the Agreement and subject to Section 5.2 of the DPA.

Schedule 2 Technical and Organizational Measures

This Schedule 2 applies to describe the applicable technical and organizational measures for the purposes of applicable Data Protection Law.

Qualtrics will apply and maintain the Technical and Organizational Measures.

1. TECHNICAL AND ORGANIZATIONAL MEASURES

The following sections define Qualtrics' current technical and organizational measures. Qualtrics may change these at any time without notice so long as it maintains a comparable or better level of security. Individual measures may be replaced by new measures that serve the same purpose without diminishing the security level protecting Personal Data.

1.1 Physical Access Control. Unauthorized persons are prevented from gaining physical access to premises, buildings or rooms where data processing systems that process and/or use Personal Data are located.

Measures:

- Qualtrics protects its assets and facilities using the appropriate means based on the Qualtrics Security Policy
- In general, buildings are secured through access control systems (e.g., smart card access system).
- As a minimum requirement, the outermost entrance points of the building must be fitted with a certified key system including modern, active key management.
- Depending on the security classification, buildings, individual areas and surrounding premises may be further protected by additional measures. These include specific access profiles, video surveillance, intruder alarm systems and biometric access control systems.
- Access rights are granted to authorized persons on an individual basis according to the System and Data Access Control measures (see Section 1.2 and 1.3 below). This also applies to visitor access. Guests and visitors to Qualtrics buildings must register their names at reception and must be accompanied by authorized Qualtrics personnel.
- Qualtrics employees and external personnel must wear their ID cards at all Qualtrics locations.

Additional measures for Data Centers:

- All Data Centers adhere to strict security procedures enforced by guards, surveillance cameras, motion detectors, access control mechanisms and other measures to prevent equipment and Data Center facilities from being compromised. Only authorized representatives have access to systems and infrastructure within the Data Center facilities. To protect proper functionality, physical security equipment (e.g., motion sensors, cameras, etc.) undergo maintenance on a regular basis.
- Qualtrics and all third-party Data Center providers log the names and times of authorized personnel entering Qualtrics' private areas within the Data Centers.

1.2 System Access Control. Data processing systems used to provide the Cloud Service must be prevented from being used without authorization.

Measures:

- Multiple authorization levels are used when granting access to sensitive systems, including those storing and processing Personal Data. Authorizations are managed via defined processes according to the Qualtrics Security Policy
- All personnel access Qualtrics' systems with a unique identifier (user ID).
- Qualtrics has procedures in place so that requested authorization changes are implemented only in accordance with the Qualtrics Security Policy (for example, no rights are granted without authorization). In case personnel leaves the company, their access rights are revoked.
- Qualtrics has established a password policy that prohibits the sharing of passwords, governs responses to password disclosure, and requires passwords to be changed on a regular basis and default

passwords to be altered. Personalized user IDs are assigned for authentication. All passwords must fulfill defined minimum requirements and are stored in encrypted form. In the case of domain passwords, the system forces a password change every six months in compliance with the requirements for complex passwords. Each computer has a password-protected screensaver.

- The company network is protected from the public network by firewalls.
- Qualtrics uses up-to-date antivirus software at access points to the company network (for e-mail accounts), as well as on all file servers and all workstations.
- Security patch management is implemented to provide regular and periodic deployment of relevant security updates. Full remote access to Qualtrics' corporate network and critical infrastructure is protected by strong authentication.

1.3 Data Access Control. Persons entitled to use data processing systems gain access only to the Personal Data that they have a right to access, and Personal Data must not be read, copied, modified or removed without authorization in the course of processing, use and storage.

Measures:

- As part of the Qualtrics Security Policy, Personal Data requires at least the same protection level as "confidential" information according to the Qualtrics Information Classification standard.
- Access to Personal Data is granted on a need-to-know basis. Personnel have access to the information that they require in order to fulfill their duty. Qualtrics uses authorization concepts that document grant processes and assigned roles per account (user ID). All Customer Data is protected in accordance with the Qualtrics Security Policy.
- All production servers are operated in the Data Centers or in secure server rooms. Security measures that protect applications processing Personal Data are regularly checked. To this end, Qualtrics conducts internal and external security checks and penetration tests on its IT systems.
- An Qualtrics security standard governs how data and data carriers are deleted or destroyed once they are no longer required.

1.4 Data Transmission Control. Except as necessary for the provision of the Cloud Services in accordance with the Agreement, Personal Data must not be read, copied, modified or removed without authorization during transfer. Where data carriers are physically transported, adequate measures are implemented at Qualtrics to provide the agreed-upon service levels (for example, encryption and lead-lined containers).

Measures:

- Personal Data in transfer over Qualtrics internal networks is protected according to Qualtrics Security Policy.
- When data is transferred between Qualtrics and its customers, the protection measures for the transferred Personal Data are mutually agreed upon and made part of the relevant agreement. This applies to both physical and network based data transfer. In any case, the Customer assumes responsibility for any data transfer once it is outside of Qualtrics-controlled systems (e.g. data being transmitted outside the firewall of the Qualtrics Data Center).

1.5 Data Input Control. It will be possible to retrospectively examine and establish whether and by whom Personal Data have been entered, modified or removed from Qualtrics data processing systems.

Measures:

- Qualtrics only allows authorized personnel to access Personal Data as required in the course of their duty.
- Qualtrics has implemented a logging system for input, modification and deletion, or blocking of Personal Data by Qualtrics or its subprocessors within the Cloud Service to the extent technically possible.

1.6 Job Control. Personal Data being processed on commission (i.e., Personal Data processed on a customer's behalf) is processed solely in accordance with the Agreement and related instructions of the customer.

Measures:

- Qualtrics uses controls and processes to monitor compliance with contracts between Qualtrics and its customers, subprocessors or other service providers.
- As part of the Qualtrics Security Policy, Personal Data requires at least the same protection level as "confidential" information according to the Qualtrics Information Classification standard.
- All Qualtrics employees and contractual subprocessors or other service providers are contractually bound to respect the confidentiality of all sensitive information including trade secrets of Qualtrics customers and partners.

1.7 Availability Control. Personal Data will be protected against accidental or unauthorized destruction or loss.

Measures:

- Qualtrics employs regular backup processes to provide restoration of business-critical systems as and when necessary.
- Qualtrics uses uninterrupted power supplies (for example: UPS, batteries, generators, etc.) to protect power availability to the Data Centers.
- Qualtrics has defined business contingency plans for business-critical processes and may offer disaster recovery strategies for business critical Services as further set out in the Documentation or incorporated into the Order Form for the relevant Cloud Service.
- Emergency processes and systems are regularly tested.

1.8 Data Separation Control.

Measures:

- Qualtrics uses the technical capabilities of the deployed software (for example: multi-tenancy, system landscapes) to achieve data separation among Personal Data originating from multiple customers.
- Customer (including its Controllers) has access only to its own data.

1.9 Data Integrity Control. Personal Data will remain intact, complete and current during processing activities.

Measures:

Qualtrics has implemented a multi-layered defense strategy as a protection against unauthorized modifications. In particular, Qualtrics uses the following to implement the control and measure sections described above:

- Firewalls;
- Security Monitoring Center;
- Antivirus software;
- Backup and recovery;
- External and internal penetration testing;
- Regular external audits to prove security measures.