



Order Form

Parties:	Qualtrics, LLC ("Qualtrics")		
	State of Iowa ("Customer")		
Effective Date:	The date signed by the last party to sign.		
Governing Document:	<p>This Order Form is subject to the following (listed in order of precedence):</p> <ul style="list-style-type: none"> The Master Service Agreement (the "MSA") dated September 20, 2019, between Qualtrics and the State of Utah, and attached hereto as the MSA Exhibit. <p>The parties hereby ratify and incorporate by reference the MSA for purposes of this Order Form as though original parties thereto. Each reference to State of Utah in the MSA (pages 3 to 19) will be deemed to mean Customer for purposes hereof.</p>		
Attachments:	<ul style="list-style-type: none"> - Fees Exhibit - Cloud Service Exhibit - Professional Services Exhibit - MSA 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:	Notwithstanding anything to the contrary set forth in the Agreement, any right of Customer to terminate without cause is only available without refund and on the condition that all fees set forth herein are paid in full.		
To be completed by Customer			
Regional Data Center:		Purchase Order Number (if any):	
Email Address for Invoice Submission:		Billing Address for Invoice Submission:	Attn:
Invoicing Instructions (if applicable):			
Qualtrics		Customer	
By (signature):		By (signature):	
Name:	Mark Creer	Name:	Paul Trombino
Title:	Managing Counsel	Title:	COO & Interim DAS Director
Date:	17 April 2020	Date:	4/17/2020
Qualtrics Primary Contact:		Customer Primary Contact:	
Name:	Nathan Walker	Name:	Kelley Reese Paul Trombino
Phone:		Phone:	
Email:	nathanw@qualtrics.com	Email:	kelley.reese@iowa.gov paul.trombino@iowa.gov



Order Form

Fees Exhibit

License Details

Start Date	End Date	Term in Months
15-Apr-2020	14-Apr-2021	12

Cloud Service Details

Year	Services	Price	Estimated Invoice Date	Payment Terms from Invoice	License Configuration
1	Cloud Professional	\$1,255,000.00 \$300,000.00	17-Apr-2020	Net 60	Q-1258624
Total		USD \$1,555,000.00			

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.



Order Form

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 will automatically renew for a successive one-year term with a price increase of no more than 5% at such renewal, unless either party provides notice of nonrenewal within 30 days after receiving the renewal notice.

In no case shall the entire term of this agreement (the initial term plus any renewal terms) extend beyond ten years.

[Description of Services on following page]

CLOUD SERVICE

CX5 State of the Art

CX Core Number of Responses: Unlimited

- Developer Tools
- Action Planning
- Admin Users (Unlimited)
- Advanced Question Types
- Advanced Quotas
- Advanced Security Management
- Branded URL
- CLFU (Case Management)
- Custom Theme
- CX ExpertReview - Response Quality (Advanced)
- CX Journey Optimizer
- XM Directory - State of the Art
- ExpertReview - Compliance Assist
- Offline App
- Predict IQ
- Professionally Developed Theme
- Role-based Dashboards
- Screen Out Reporting
- SMS
- Stats IQ (Describe and Relate)
- Stats IQ (Pivot and Regression)
- Text IQ
- Vanity URL
- Website Feedback
- In-app addon for Website Feedback
- Dashboard Users Includes up to 5

Professional Service Exhibit

Customer agrees that Qualtrics may use partners to deliver any portion(s) of the Project at Qualtrics' discretion.

1. Definitions

- "Deliverables" refers to those implementation deliverables included in the Project Scope in Section 2.
- "Delivery Team" refers to the set of resources assigned by Qualtrics for fulfillment of project scope.
- "Project" refers to the project that is the cumulation of Deliverables to be provided under this Professional Services Exhibit.
- "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

- Inclusions
 - i. Deliverable descriptions are outlined below. Please note that **only the Deliverables listed immediately below are included in this Project**. Each line item represents a Deliverable and quantity.
 1. Health Assessment
 2. Health Assessment dashboard
 3. CSAT Follow Up Survey
 4. Completion of Engineering efforts as defined below:
 - a. Follow up Assessment: Automation of the Opt in process and the distribution of assessment links in order to provide symptom updates
 - b. Login page creation on State site in order to obtain status of results and view progress
 - i. Health assessment respondents will need to create profile in order to track their status via self serve option
 - c. Appointment scheduler integration with partner in order to accommodate for testing sites
 - d. Test Kit Lifecycle Inventory Management System
 - i. System to track test kits from completion of assembly through results reporting
 5. Onboarding/Enablement of existing build to Customer
 - a. Enablement efforts will be coordinated by Delivery Team with Program Architect leading the efforts Delivery Team will coordinate all status update calls
 6. Daily batch export to Customer Data Warehouse
 - a. File dropped to customers SFTP to consume on a daily basis
 7. Transition to Designated Support Agent (DSA)
 - a. Please refer to Designated Support Agent Exhibit on page 5
- Assumptions
 - i. Engineering efforts are not included and will require a separate change order
 - ii. For the duration of the Project, Customer will provide the Delivery Team with access to Customer's Qualtrics brand (account) as a brand administrator.
 - iii. The Project requires Customer to have Qualtrics API access enabled on Customer's account. Qualtrics API license is priced separately and not included herein.
 - iv. Customer authorizes Qualtrics to work in customer Brand ID until onboarding is completed.
 - v. Customer agrees to provide list of authorized employees to engage Provider. List authorizes designated resources with Brand ID access. All requests must be filtered through authorized employees
 - vi. Delivery Team and Customer will mutually agree to the list of specific browsers that should be tested as per Project requirements. Qualtrics' standard browser compatibility policy is specified in the "Browser Compatibility & Cookies" section of the Qualtrics support pages:
[\(https://www.qualtrics.com/support/survey-platform/getting-started/browser-cookies/\)](https://www.qualtrics.com/support/survey-platform/getting-started/browser-cookies/).

3. Responsibilities

- Delivery Team Responsibilities
 - i. Engages with Customer throughout the Project, keeping the Customer informed of timelines and progress toward completion throughout the Project.
 - ii. Completes all items listed within Project Scope for each applicable Deliverable.
 - iii. 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.
 - iv. Offers guidance and support documentation required to ensure Customer can complete Onboarding and Enablement phase
 - v. 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.
 - vi. The purpose of the Project is to train Customer to be able to manage the program when the Project is complete. As such, the Delivery Team does not perform full setup and configuration of Qualtrics as a full-service implementation.
 - vii. Completes all responsibilities outlined in Section 2.
- 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.
 - iv. Completes all items listed under Customer Responsibilities in Schedule 1 for each applicable Deliverable.
 - v. Maintains all features included in the license after the implementation & Onboarding period, including any updates to Deliverables created during the Project, as well as the creation of any new Deliverables, including surveys and dashboards.
 - vi. 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.
 - vii. Completes all steps listed under Customer Responsibilities in Section 2.

4. Governance

- 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 Enablement portion of the Project will last for 8 week(s).
- The Project is complete based on completion of delivery and Customer's acceptance, per the terms of the mutually agreed upon delivery schedule:
- 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 video conference.

5. Acceptance Criteria

- 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).

- 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 5 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

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

7. Change Orders

- 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.
- 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 Service Order.

8. Annual Hosting and Maintenance

- Qualtrics will provide support for any customizations that the Delivery Team has developed. This includes:
 - i. Costs for hardware and software necessary to operate the customizations together with the Services.
 - ii. Maintaining compatibility with the standard functionality as implemented by Customer.
 - iii. The custom capabilities integrate with Qualtrics' core software products but are separate.
 - iv. The Professional Services Support ensures ongoing compatibility with the evolving core products.
 - v. Qualtrics will provide maintenance and fix issues if the original functionality becomes inoperable within the licensing period for Qualtrics and within one year of the most recent annual hosting and maintenance renewal.
 - vi. Customer support and troubleshooting issues related specifically to the custom developed solution.
 - vii. Any and all updates or revisions that are needed for security purposes.
 - viii. Continuous monitoring and alerting of critical system functionality on a 24/7 basis.
 - ix. Management and execution of required migrations, deprecations, and upgrades.

9. Designated Support Agent (DSA) Services Exhibit

The Qualtrics Designated Support Agent will fulfill the following:

Term: up to 4 months from date of execution

Fees: No charge for term

- Be available during regular business hours: 8am - 5pm MT (excluding weekends and holidays)
 - i. The DSA is an upgraded support experience who will provide a single point of contact support within the working hours. Outside of these hours, Customer requests will be handled by the Qualtrics 24/7 general support team. The general support team will be able to address most issues, and/or escalate any issues requiring extra attention. The DSA will be looped in on any issues that arise outside of business hours.
- Be the primary point of contact for up to 10 program administrators designated by Customer to Qualtrics. Program inquiries from other Customer users (non administrators) should be routed to the designated program administrators who should, in turn, work with the DSA. General support inquiries from Customer users (administrators and non-administrators) should be directed to the Qualtrics general support team.
- Be acquainted with the professional and engineering services work and customizations associated with Customer's program. Troubleshooting and resolution of custom work will be performed by the professional and engineering services teams, respectively.
- Agent support is subject to the following limits:
 - i. Agent will not provide support regarding program design, methodology or execution.
 - ii. Agent will not provide support for survey respondents.
 - iii. Agent will not do any new technical builds on behalf of the customer, including surveys, dashboards, distributions, etc. but will instruct, advise, and review as needed.
 - iv. Agent will not provide support for custom code work performed by third parties.

Customer hereby permits the DSA and, where applicable, Qualtrics Customer Success and Qualtrics general support teams, to access Customer's Qualtrics accounts as necessary to provide the services and support related hereto to Customer, which access may include accessing and downloading Customer Data to the extent necessary to perform the offering set forth herein.

10. Payments and Fees

Item(s)	Invoice Date	Price (USD)
CX Implementation	Date Signed	\$250,000
Designated Support Agent	Date Signed	\$50,000
Total:		\$300,000
Annual Hosting and Maintenance*	Beginning of Year 2	\$0

*All fees are one time except Annual Hosting and Maintenance, which will be renewed yearly provided the functionality is in use.

11. Terms and Conditions

The terms and conditions of the Agreement shall take precedence with the exception of the following modifications for this scope of work only:

Section 5 Customer Data

Section 5.1 General. As between the Parties, Customer owns all right, title and interest in and to all survey responses, reports, and any other information input or generated on behalf of Customer in connection with the Services (“Data”). Customer 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. Data shall be deemed to be Customer’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. Anonymized and aggregated data (“Usage Data”) for this scope of work shall not be used for Qualtrics’ business purposes.

Section 5.4 Data Breach (Security Breach) Responsibilities 4 is amended to delete “Utah Code § 13-44-101 thru 301 et al” and replace the deleted language with “Iowa Code § 715C.”

Section 7.4 Limitation of Warranties shall be renumbered as section 7.5 and the following language will be inserted as new section 7.4:

Section 7.4 Compliance with Applicable Laws. Qualtrics and its employees, agents, officers, directors, approved contractors and subcontractors shall comply with all federal, state, international, and local laws, rules, ordinances, codes, regulations and orders when performing within the scope of this Agreement, including without limitation, all laws relating to privacy and information security, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Administrative Services and the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, permitting and licensing, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws, laws relating to the use of targeted small businesses as subcontractors or suppliers, in each case, as applicable to the operation of its business. Qualtrics shall comply with any reporting and compliance standards of the Iowa Department of Administrative Services regarding equal employment as applicable to the operation of its business. Qualtrics may be required to submit its affirmative action plan to the Iowa Department of Administrative Services to comply with the requirements of 11 Iowa Admin. Code Chapter 121. Notwithstanding any provision in this Agreement to the contrary, to the extent that Qualtrics fails to meet or otherwise breaches any of its duties or obligations under this Section 7.4, it shall be liable and responsible for any fines, penalties, taxes, fees, damages, costs, expenses, or other amounts assessed to, imposed against or otherwise incurred by the State of Iowa or any State Governmental Entity, and the State may consider any such failure or breach to be material breach of this Agreement.

Section 8 is amended by adding the following new section 8.6:

Section 8.6 Open Records and Electronic Discovery Requests and Record Retention. Qualtrics will, upon the State of Iowa’s request and within any time period specified by the State of Iowa, take all actions requested by State of Iowa to assist the State of Iowa in complying timely with any request for records, data, or information or materials of any kind that may be made by any person or entity in accordance with applicable public or open records laws (including, without limitation, Iowa Code Chapter 22) or in connection with any subpoena, court order, discovery request, regulatory or criminal investigation or proceeding, or any other matter that may require the State of Iowa to produce or provide data, records, or information of any kind to a third party. Customer shall use Qualtrics’ self-service tools (as available) to address such requests to the extent possible.

Section 9 is deleted and replaced with the following new section 9:

Section 9 Limitation of Liability. Except as otherwise set forth herein, and only to the extent permitted by and not prohibited by applicable laws, rules and regulations: the maximum liability of either Party under this Agreement shall be one (1) times the Contract Value (Contract Value is defined as the aggregate total compensation paid by the State of Iowa to Qualtrics under the entire term of the Agreement, including all renewals and extensions); provided, however, under no circumstances shall the foregoing limitation apply to any losses, damages, expenses, costs, settlement amounts, legal fees, judgments, actions, claims, or any other liability arising out of or relating to:

9.1 Intentional torts, criminal acts, fraudulent conduct, intentional or willful misconduct, or the gross negligence, or bad faith of a party, its officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors;

9.2 Death, bodily injury, a party’s breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data, unauthorized use or disclosure of Confidential Information, , or damage to real or personal property;

9.3 Any contractual obligations of a party pertaining to indemnification; intellectual property, or compliance with applicable laws, in each case, to the extent required by applicable law,

9.4 Any claims arising under provisions of the Agreement calling for indemnification of the State of Iowa or any Indemnitee for third-party claims against the State of Iowa for bodily injury to persons or for damage to real or tangible personal property caused by the Vendor’s gross negligence or willful conduct;

Further, nothing in this Agreement, including Section 9, shall be construed to waive any clause regarding the availability or appropriation of funds, sovereign immunity, or any other immunity, restriction, or limitation on recovery provided by law to the state or any agency, department or official of the State.

Section 10 Indemnification is deleted and replaced with the following new section 10:

Section 10 Indemnification

10.1 Indemnification Relating to Intellectual Property. Qualtrics shall indemnify and hold the State of Iowa harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs incurred as a result of a third-party claim brought against the State of Iowa to the extent arising out of any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right by the Qualtrics' services.

10.2 Only to the extent consistent with and permitted by Article VII, Section 1 of the Iowa Constitution and Iowa Code chapter 669, Customer will indemnify Qualtrics against claims, as defined in Iowa Code § 669.2, brought against Qualtrics and its affiliates and subcontractors by any third party related to Data. Qualtrics agrees that any claim for which it seeks indemnification pursuant to this section 10.2 will be subject to the provisions of Iowa Code ch. 669 and 543 Iowa Admin. Code ch. 1. To the extent Customer's obligations in the first sentence are not permitted, Customer shall be liable to Qualtrics for damages finally awarded against Qualtrics and its affiliates and subcontractors by any third party related to Data, subject to Article VII, Section 1 of the Iowa Constitution and Iowa Code chapter 669.

10.3 Notwithstanding the foregoing, the defending party is in no way obligated to the defended 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 defending party; (ii) the defending party's compliance with instructions or specifications provided by the defended party; or (iii) the combination of content, services or products with other content, services or products not supplied by the defending party.

10.4 Third Party Claim Procedure. 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. Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

10.5 Survives Termination. The obligations of this section 10 shall survive termination of the Agreement.

Section 11.1 Choice of Law and Jurisdiction is amended by deleting "State of Delaware" and replacing the deleted language with "State of Iowa." Section 11.1 is further amended by deleting "Salt Lake City, Utah" and replacing it with "Des Moines, Iowa."

Section 11.2 is amended by deleting "except for payments."

Section 11.16 Conflict of Interest with State Employees is amended by deleting "Section 63G-6a-2404, Utah Procurement Code, as amended" and replacing the deleted language with "Iowa Code § 68B."

Section 11.21(1) is amended by deleting the following language: "including Section 63G-12-302, Utah Code, as amended."

Section 11.22 Employment Practices shall be deleted by deleting numbered sentence (v).

Section 11.27 Public Information is amended by replacing all references to "GRAMA" with "Iowa Code chapter 22."

Section 11.28 Payments is deleted and replaced with the following new section 11.28:

Section 11.28 Payments. Customer shall pay all undisputed amounts set forth in approved invoices within sixty (60) days in conformance with Iowa Code Section 8A.514 and 11 Iowa Admin. Code r. 41.1(2). The State of Iowa may pay in less than sixty (60) days, as provided in Iowa Code Section 8A.514. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code Section 8A.514. The State shall prepay for cloud services on an annual basis in accordance with 11 Iowa Admin. Code ch. 48.

Order Form

MSA Exhibit

[see attached]



Contract # MA3289

STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This contract is between the Division of Purchasing and the following Contractor:

Qualtrics, LLC <hr/> <p style="text-align: center;">Name</p> 333 W. River Park Dr. <hr/> <p style="text-align: center;">Address</p> Provo UT 84604 <hr/> <p style="text-align: center;">City State Zip</p>	LEGAL STATUS OF CONTRACTOR <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Non-Profit Corporation <input checked="" type="checkbox"/> For-Profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Government Agency
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Contact Person Chase Winder Phone # 801-243-9028 Email cwinder@qualtrics.com

Vendor #VC0000186463 Commodity Code 43230, #81110, #81112 , 20821

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide: Experience Management Software as a Service (SaaS) for the State of Utah.

3. PROCUREMENT: This contract is entered into as a result of the procurement process on BidRS19041. The Department of Technology Services will facilitate purchases under this contract.

4. CONTRACT PERIOD: Effective Date: September 20, 2019 Termination Date: September 19, 2022 unless terminated early or extended in accordance with Section 6 of this Agreement. Renewal options (if any): See Section 6.1 of this Agreement.

5. Administrative Fee: 0.10% or 1/10 of 1% of the Fees paid by Eligible Users under the applicable Report as set forth in Section 11.31 of the Agreement.

[State of Utah internal: Executive Branch Agency purchases must be authorized by DTS prior to purchasing. For authorization, either purchase through DTS by placing a purchase request through ServiceNow or request an exception through ServiceNow by clicking [here](#). Any questions, please ask the IT Director assigned to your agency.]

6. ATTACHMENT A: Mutually-agreed Master Services Agreement for Goods Services and IT

[Redacted text]

EXHIBIT A: Insurance Coverage

EXHIBIT B: Service Level Agreement/Incident Response

7. Each signatory below represents that he or she has the requisite authority to enter into this contract.

CONFIDENTIAL

Master Services Agreement

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR (QUALTRICS, LLC)

STATE



Sep 20, 2019



Sep 20, 2019

Contractor's signature

Date

Director, Division of Purchasing

Date

Mark Creer

Managing Counsel

Type or Print Name and Title

Rick Straw	(801) 538 3166	NA	rstraw@utah.gov
Division of Purchasing Contact Person	Telephone Number	Fax Number	Email

[Remainder of page left intentionally blank.]

This Master Services Agreement (this “**Agreement**”) is effective as of **September 20, 2019** (the “**Effective Date**”), by and between Qualtrics, LLC (“**Qualtrics**” or “**Contractor**”) and the **State of Utah** (“**Customer**,” and each of Qualtrics and Customer, a “**Party**,” and collectively, the “**Parties**”). This Agreement is a framework document to establish a Services-based relationship between the Parties.

Definitions

A. Capitalized terms used in this Agreement are defined in line with the text, or as included below in this Section A.

1. “**Contractor**” means Qualtrics, including its agents, officers, employees, partners, and/or any other person or entity for which Qualtrics may be liable under federal, state, or local laws.
2. “**Division**” means the State of Utah Division of Purchasing.
3. “**DTS**” means the State of Utah Department of Technology Services.
4. “**Eligible User(s)**” means the State of Utah’s government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts will be allowed to use this Contract. Any Eligible User desiring to purchase Services (defined below) under this Agreement shall enter into an Order (defined below) referring to this Agreement.

Recitals

A. Under this Agreement, Customer 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 Customer 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 Customer using a web browser and the Internet. Subscription Services are specified in a service order (“**Service Order**”) and are purchased on an annual or multi-year basis as set forth in a 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**”). Professional Services are purchased on a project basis.

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

C. Customer desires to use the Services set forth in an Order, and Qualtrics desires to provide such Services to Customer, 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 Customer agree as follows:

SECTION 1 LICENSE OF SUBSCRIPTION SERVICES AND RESTRICTIONS

Section 1.1 License; Contacts. Effective upon the Parties’ execution of an applicable Order, Qualtrics hereby grants to Customer 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 Customer's internal business purposes, including responses by external respondents, during the term set forth in the applicable Order. Customer 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. 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. Customer shall designate one person to be responsible for administering its account and all its users (such person, the "**Brand Administrator**").

Section 1.2 Restrictions. Notwithstanding anything herein to the contrary, Customer 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 circumvents a contractual usage limit or violates this Agreement or an Order; (c) access or use any of Qualtrics' intellectual property except as provided herein; (d) permit third parties to use the Subscription Services without Qualtrics' prior consent (except that Customer may allow third parties to use the Subscription Services if such third parties are providing services to Customer (but not for such third parties' own use) and such third party is not a direct competitor of Qualtrics as can be reasonably determined); (e) tamper with the security of the Software or reverse engineer, interfere with, or disrupt the integrity or performance of the Services; (f) perform vulnerability tests, network scans, penetration tests, or other investigative techniques on Qualtrics' software or services; (g) if Customer is an academic institution purchasing an academic license, permit use of the Services by individuals other than students, staff, or faculty of Customer, or use the Services for other than academic or research purposes (e.g., Customer shall not use the Services for commercial purposes, including on behalf of other entities for compensation); (h) use the Services in violation of applicable law; or (i) use the Services to (1) send irrelevant or inappropriate messages to third parties (e.g., "spam"), (2) upload, send, or store malicious code, including software or content that condones, contains, or links to warez, cracks, hacks, their associated utilities, or other piracy-related information, whether for educational purposes or not, (3) collect sensitive personal information, (4) upload binary files or executable code, or (5) upload content that (A) infringes, misappropriates, or otherwise violates any third party's intellectual property right, (B) aggravates, harasses, threatens, defames, or abuses Qualtrics or third parties (including content that is racist or otherwise extremely offensive to others), (C) contains or contains links to nudity, pornography, obscene content, sex, profanity, or foul language (except in pursuit of valid research purposes), (D) exploits images of children under 18 years of age, or (E) contains links to third-party services.

Section 1.3 Qualtrics, in its sole discretion, may restrict access to Customer's account after providing notice to Customer of unauthorized access or use and allowing Customer a reasonable period to cure such unauthorized access or use.

Section 1.4 Insurance. Qualtrics shall maintain in 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 Customer 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 Customer set forth in Section 2.2.

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**. Customer shall provide Qualtrics with information as Qualtrics reasonably requests to enable Qualtrics to verify and reproduce the reported error. Certain Qualtrics employees may need to access Data to provide the Services. Customer hereby consents to such access where necessary to provide the Services, which access may include downloading a copy of Data for so

long as necessary and thereafter deleting such copy. Online support materials for the Subscription Services (“**Online Information**”) are included with the Subscription Services and are available at www.qualtrics.com/support.

SECTION 3 FEES. During an Order Term, Customer shall pay Qualtrics the fees and charges specified on the applicable Order. Customer is responsible for all applicable taxes on the fees and charges paid by Customer, 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, use, or value-added taxes. Customer is responsible for paying any fees for exceeding the quantity limits set forth in an Order.

SECTION 4 OWNERSHIP OF INTELLECTUAL PROPERTY. As between the Parties, Qualtrics exclusively owns 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 Customer to Qualtrics during the Term. Any transaction contemplated hereby or by any Order is not a sale and does not convey to Customer 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 Customer to use them.

SECTION 5 CUSTOMER DATA

Section 5.1 General. As between the Parties, Customer owns all right, title and interest in and to all survey responses, reports, and any other information input or generated on behalf of Customer in connection with the Services (“**Data**”). Customer 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. Data shall be deemed to be Customer’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, Customer 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 personally identifiable information and will only be used on an aggregated basis with similarly anonymized data of other Qualtrics customers. Usage Data shall not be considered Confidential Information of Customer.

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-18 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, without undue delay 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; or (c) any other disclosure of Data in violation of this Agreement (collectively, “**Security Breach**” or “**Data Breach**” as used in Section 5.4)). In the event of a Security Breach, each Party shall take such steps as are necessary to: (1) promptly mitigate the effects of such Security Breach and prevent a recurrence thereof; and (2) comply with applicable laws relating to such Security Breach.

Section 5.4 Data Breach (Security Breach) Responsibilities. This Section 5.4 only applies when a Data Breach/Security Breach occurs Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification. In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the applicable Eligible User by reasonably sharing information

relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; (c) provide a root cause report for the Data Breach to the applicable Eligible User; and (d) in accordance with applicable laws indemnify, hold harmless, and defend DTS and the State of Utah against any third-party claims, damages, or other harm related to a Data Breach due to Qualtrics' breach of this Agreement that results in the unauthorized use or disclosure of Data. If the Data Breach requires public notification by applicable law, all communication naming an Eligible User shall be coordinated with such Eligible User. Contractor shall be responsible for all notification and remedial costs and damages required by law for a Data Breach due to Qualtrics' breach of this Agreement.

Section 5.5 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 Customer 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. Customer is responsible for routine backup and deletion of Data.

SECTION 6 TERM AND TERMINATION

Section 6.1 Term. The term of this Agreement ("Term") commences on the Effective Date and continues for three years and will automatically renew for two additional one-year periods unless earlier terminated as provided below or until a Party provides notice of non-renewal at least 30 days prior to expiration of the then-current period. 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.

Section 6.2 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 (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.

Section 6.3 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 Customer'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, at no additional cost to Customer, (1) Qualtrics may migrate Customer to use such functionality or feature on the standard Qualtrics product, and (2) Qualtrics is not required to maintain that custom functionality under such Order.

Section 6.4 Effect of Termination. Following any termination of this Agreement or an Order, Qualtrics shall discontinue providing the applicable Services, and Customer shall cease using such Services. Within 30 days after the end of the Term or termination of this Agreement or an Order, (a) Customer 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 Customer if Customer 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 6.5 Customer Right to Access Data After Termination. Upon the termination of all Subscription Services, Qualtrics shall make available to Customer a portal whereby Customer 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, including applicable data privacy laws (in Qualtrics' case, as a data processor, and in Customer's case, as a data controller).

Section 7.2 Qualtrics. Qualtrics warrants to Customer 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 Customer 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; and
- (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.

Section 7.3 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 (1) content uploaded to or collected into the Software by Customer or a third party acting under Customer's license, (2) Qualtrics' compliance with instructions or specifications provided by Customer, or (3) 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 Customer's sole remedy and Qualtrics' sole liability for Qualtrics' breach of Section 7.3(a), Qualtrics shall, at its option and sole cost and expense: (1) obtain the right for Customer to continue to use the Software or Deliverables as licensed by this Agreement; (2) 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 (3) if in Qualtrics' discretion the options set forth in clauses (1) and (2) are not commercially reasonable, by notice to Customer, terminate this Agreement and any applicable Orders with respect to all or part of the Services, and require Customer to immediately cease any use of the Services or any specified part or feature thereof, in which case Qualtrics shall refund to Customer a prorated portion of Customer's prepaid unused fees for the discontinued features of the Services.

Section 7.4 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"

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, 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.

Section 8.3 PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, STATE, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES: In the event that an Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Agreement, Contractor agrees to hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Agreement. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Agreement, unless prior written consent has been obtained in advance from the Eligible User.

Section 8.4 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), except that Recipient is not required to return or destroy copies of any electronic records or files containing the Confidential Information that have been created pursuant to automatic archiving or back-up procedures and that would be unreasonably burdensome to return or destroy. 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.

Section 8.5 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 WAIVER OF SPECIFIED DAMAGES. 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, INFORMATION, 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 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 LIABILITY CAP. THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY RELATED TO THE SUBJECT MATTER HEREOF SHALL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO QUALTRICS UNDER THE APPLICABLE ORDER IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

SECTION 9.3 EXCLUSIONS. THE LIMITATIONS OF LIABILITY IN SECTION 9.1 AND SECTION 9.2 DO NOT APPLY TO SECTION 10 (INDEMNIFICATION) OR ANY FEES PAYABLE HEREUNDER, AND THE LIMITATION OF LIABILITY IN SECTION 9.1 DOES NOT APPLY TO BREACHES OF SECTION 5 (CUSTOMER DATA) AND SECTION 8 (CONFIDENTIAL INFORMATION). EACH PARTY SHALL USE REASONABLE EFFORTS TO MITIGATE ANY POTENTIAL DAMAGES OR OTHER ADVERSE CONSEQUENCES AFFECTING SUCH PARTY THAT ARISE FROM OR RELATE TO THE SERVICES.

SECTION 10 INDEMNIFICATION. Each Party (the “**Indemnifying Party**”) shall indemnify and hold harmless the other Party (the “**Indemnified Party**”), and if applicable, its licensors and affiliates and each of their officers, directors, and employees 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.

SECTION 11 GENERAL

Section 11.1 Choice of Law and Jurisdiction. This Agreement, any Order, and all claims arising out of or related thereto will be governed by the laws of the United States of America and the State of Delaware, without reference to rules governing choice of law. Except for the right of either party to apply to any court for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any dispute that arises between the Parties concerning this Agreement or any Order, forum and venue will be laid exclusively in the state and federal courts located nearest to Salt Lake City, Utah, and such courts shall have exclusive jurisdiction over any dispute concerning this Agreement or any Order. The Parties hereby consent to the personal jurisdiction of such courts and expressly waive all defenses of lack of personal jurisdiction and forum non-conveniens and agree that process may be served on either Party in a manner authorized by applicable law or court rule. 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.

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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. If the terms of this Agreement conflict with 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 subcontractors to perform certain portions of the Services, but Qualtrics remains responsible for any subcontractor's performance 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 6.4, Section 7.4, 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 (a) by a delivery service with provisions for a receipt, to the physical address listed on the signature page hereto; or (b) by email to *notice@qualtrics.com* for notices going to Qualtrics, or to the email address listed for Customer in the applicable Order for notices going to Customer. Except as otherwise provided herein, any notice or other communication is effective only (1) upon receipt (or rejection) by the receiving Party and (2) 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. Customer 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.

Section 11.15 Conflict of Interest. Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made to the Division.

Section 11.16 Conflict of Interest with State Employees. Contractor agrees to comply and cooperate in good faith will all conflict of interest and ethic laws including Section 63G-6a-2404, Utah Procurement Code, as amended, applicable to the operation of its business.

Section 11.17 Drug-free Workplace. Contractor agrees to abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.

Section 11.18 Code of Conduct. If Contractor is working onsite at facilities controlled or owned by the State of Utah, Contractor agrees to follow and enforce the applicable code of conduct which will be provided upon request by Contractor to the Eligible User. Contractor will assure that each employee or each employee of Subcontractor(s) under Contractor's supervision working onsite receives a copy of such code of conduct.

Section 11.19 No Waiver of Sovereign Immunity. In no event shall this Agreement be considered a waiver by the Division, an Eligible User, or the State of Utah of any form of defense or immunity, whether sovereign immunity, governmental immunity, or any other immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

Section 11.20 Records Administration. Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Agreement. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, Customer auditors, federal auditors, Eligible Users or any firm identified by the Division, remote access to all such records upon written request. Contractor

must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.

Section 11.21 Certify Registration and Use of Employment "Status Verification System". This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.

(1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.

(2) Contractor's failure to comply with this section will be considered a material breach of this Agreement.

(3) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.

Section 11.22 Employment Practices. Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.

Section 11.23 Debarment. Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement, by any governmental department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

Section 11.24 Nonappropriation of Funds, Reduction of Funds, or Changes in Law.

- (a) Only after the first year of each Order and thereafter only on the anniversary of the effective date specified in such Order, upon thirty (30) days written notice delivered to the Contractor, such Order may be terminated in whole or in part at the sole discretion of the Division or an Eligible User, if it is reasonably determined that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Agreement; or (ii) that a change in available funds affects an Eligible User's ability to pay under such Order. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.
- (b) If a written notice is delivered under this section, the Eligible User will reimburse Contractor for the Services properly ordered until the effective date of said notice and without refund. The Eligible User will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

Section 11.25 Sales Tax Exemption. The Custom Deliverables or Services being purchased by the Eligible Users under this Contract are being paid from the Eligible User's funds and used in the exercise of the Eligible User's essential function as an Eligible User. The Eligible User will provide Contractor with a copy of its sales tax exemption number upon request. It is the Contractor's responsibility to request the sales tax exemption number from the Eligible User.

Section 11.26 If Contractor is providing the State with Goods or Custom Deliverables it is important that Contractor follows industry-standard policies and procedures to minimize security risk and ensure that State and Federal laws applicable to the operation of its business are followed. At execution of this project, no software development is being procured or is anticipated. If such becomes the case, the parties will negotiate any additional terms in good faith.

Section 11.27 Public Information. Contractor agrees that this Agreement, any related purchase orders, related invoices, related pricing lists, and the proposal "GRAMA"). Contractor gives the Division, the Eligible Users, and the State of Utah express permission to make copies of this Agreement, any related purchase orders, related invoices, related pricing lists, and proposal in accordance with GRAMA. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation. The Division, the Eligible Users, or the State of Utah will not inform Contractor of any request for a copy of this Agreement, including any related purchase orders, related invoices, related pricing lists, or the proposal.

Section 11.28 Payments. Payments will be made within thirty (30) days from receipt of a correct invoice is received. After sixty (60) days from the date a correct invoice is received by the appropriate State official, Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue. Contractor agrees that if during, or subsequent to the Agreement an audit determines that payments were incorrectly reported or paid by the Eligible Users to Contractor, then Contractor shall, upon written request, promptly refund to the Eligible Users any such overpayments.

Section 11.29 Compliance with Accessibility Standards. Contractor represents and warrants that certain of the Services it provides to Customer under this Agreement may be configured by Customer to comply with the applicable requirements for Customer's customers with disabilities. Notwithstanding the foregoing, Customer is solely responsible to configure the Services to comply with the applicable requirements. Support pages regarding accessibility can be found at www.qualtrics.com/support.

Section 11.30 Individual Customers. Each Eligible User that purchases Services from this Contract will be treated as if they were Customer. Each Eligible User will be responsible to follow the terms and conditions of this Agreement. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

Section 11.31 Reports and Fees.

- (a) Administrative Fee: Contractor agrees to provide an administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be the amount listed on the first page of this Agreement and will apply to all purchases (net of any returns, credits, or adjustments) made under this Agreement.

(b) Reports: Qualtrics agrees to provide a utilization report semi-annually. The report will show the dollar volume of purchases by each Eligible User. The report will be provided in secure electronic format through the Division’s Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.

(c) Report Schedule: Utilization reports shall be submitted by Qualtrics semi-annually in accordance with the following schedule:

Period End	Reports Due
June 30	July 31
December 31	January 31

(d) Fee Payment: After the Division receives the utilization report it will send Contractor an invoice for the total applicable administrative fee owed to the Division. Contractor shall pay the applicable administrative fee within thirty (30) days from receipt of invoice.

(e) Timely Reports and Fees: If the applicable administrative fee is not paid by thirty (30) days of receipt of invoice or utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.

Section 11.32 Procurement Ethics. Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.

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

Qualtrics, LLC	State of Utah, Division of Purchasing
By:	By:
Name:	Name: Christopher Hughes
Title:	Title: Director
Date:	Date:
Address: Qualtrics, LLC Attn: Legal Department 333 W River Park Dr. Provo, UT 84604 United States	Address: Division of Purchasing & General Services 3150 State Office Building Capitol Hill Salt Lake City, UT 84114-1061

Attachments and Exhibits:



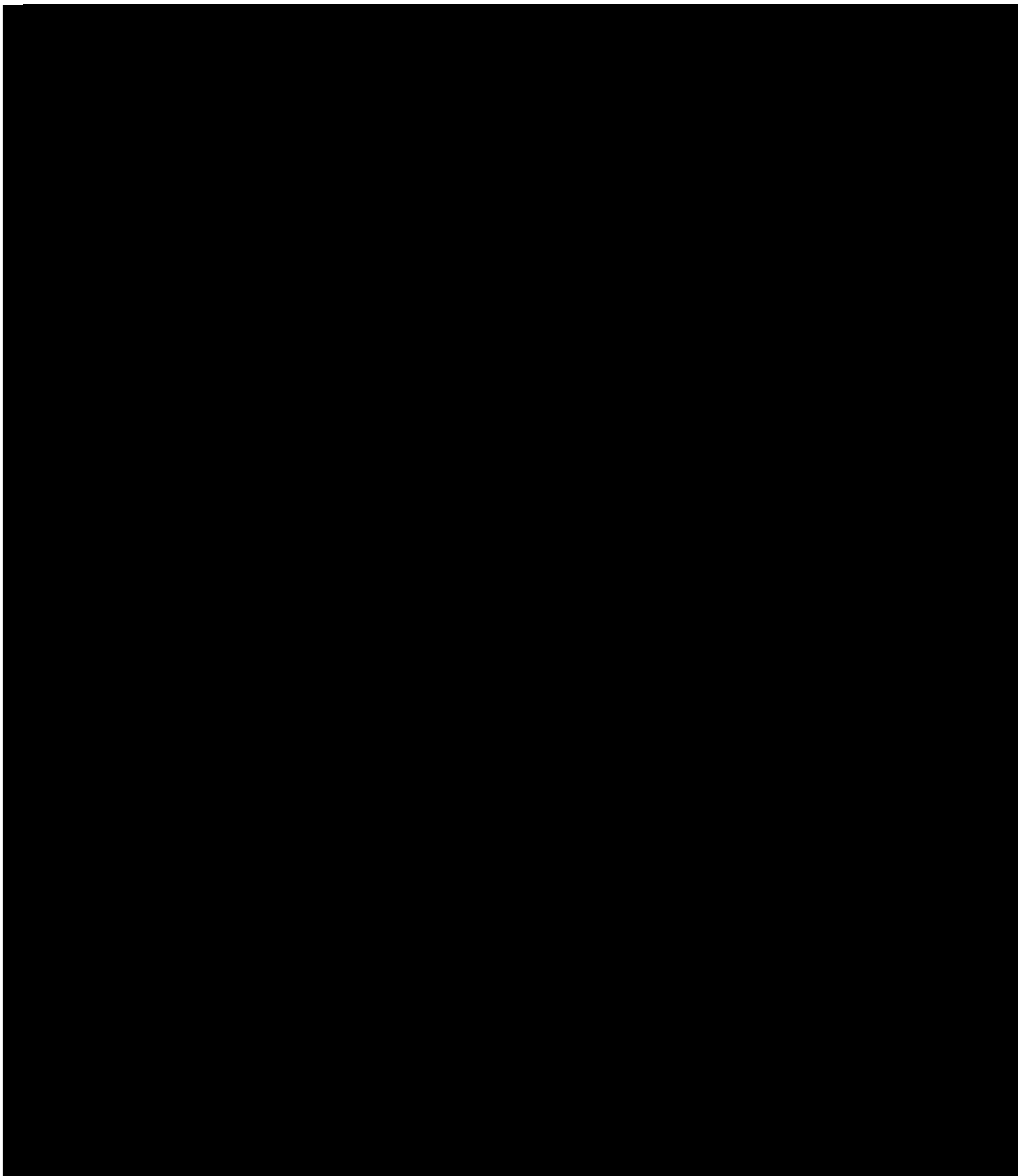
Exhibit A: Insurance Coverage

Exhibit B: Service Level Agreement/Incident Response

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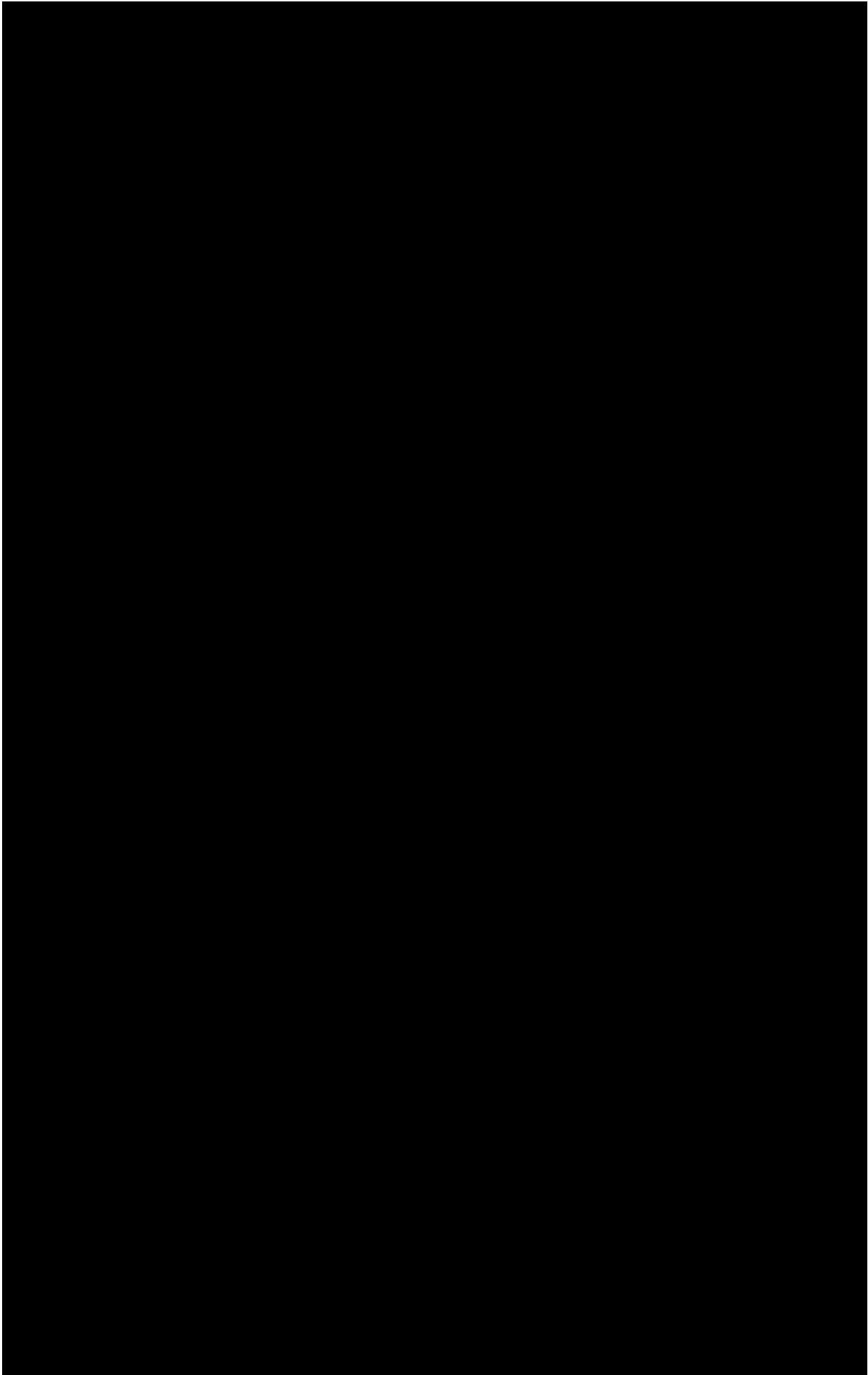


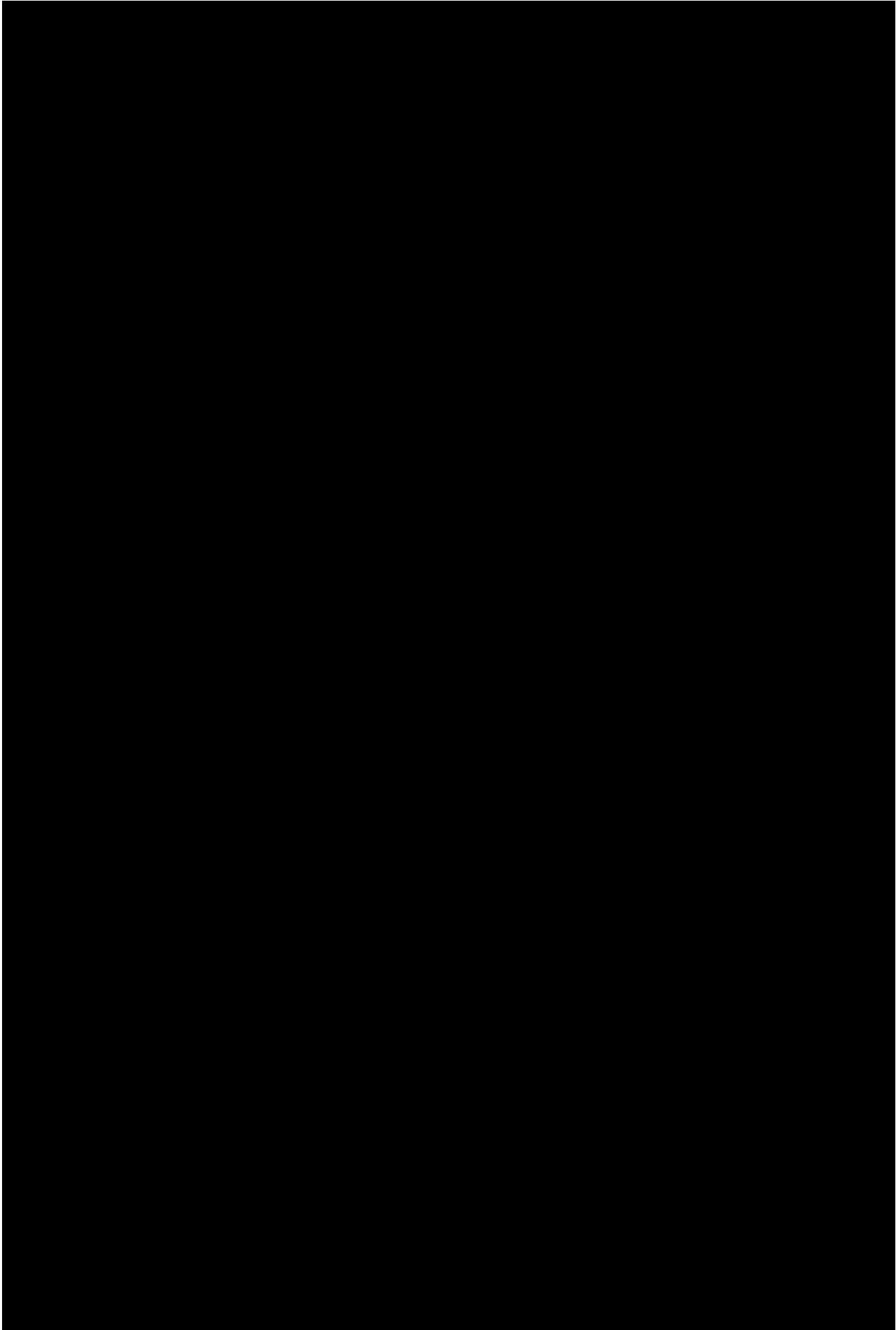
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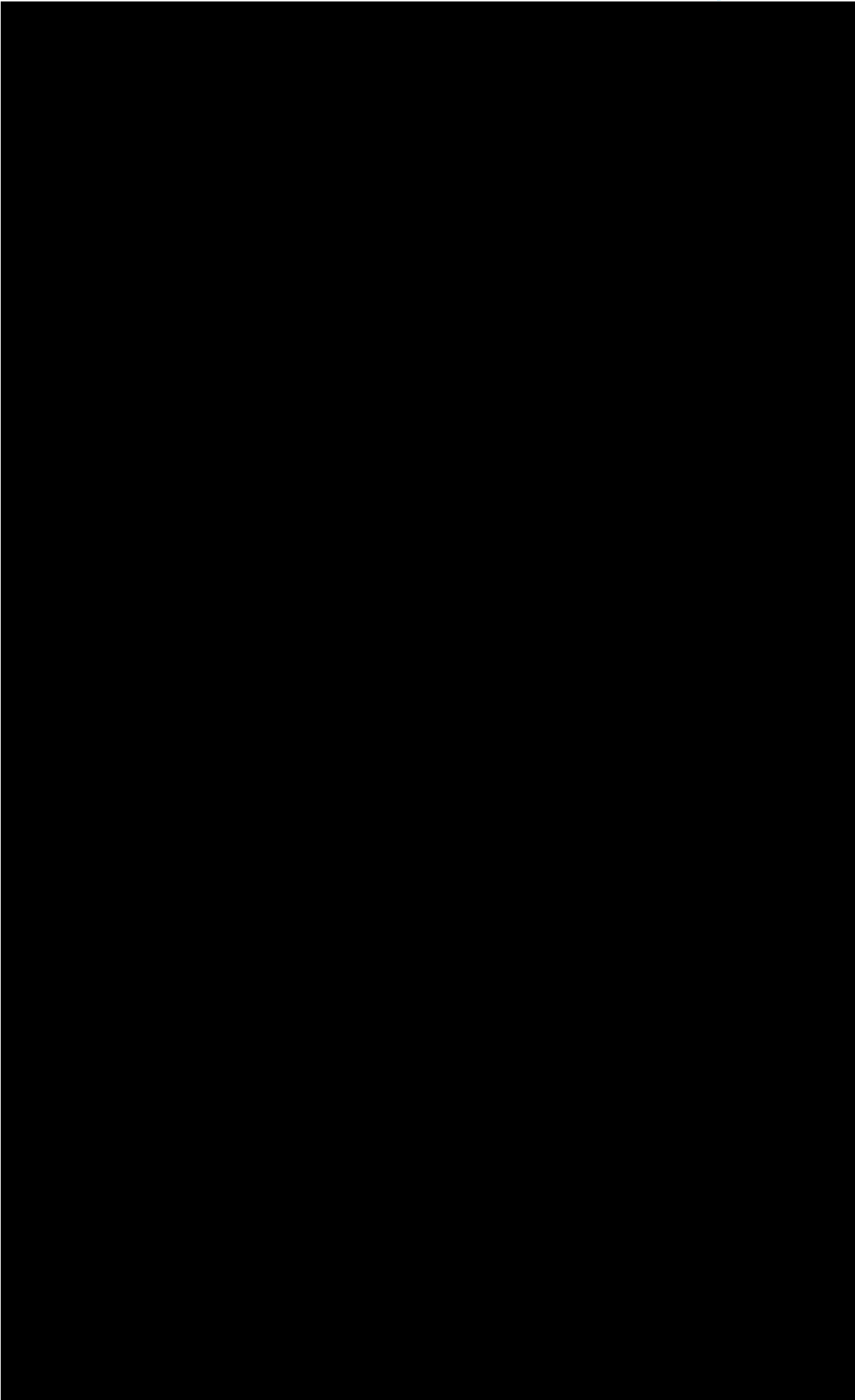
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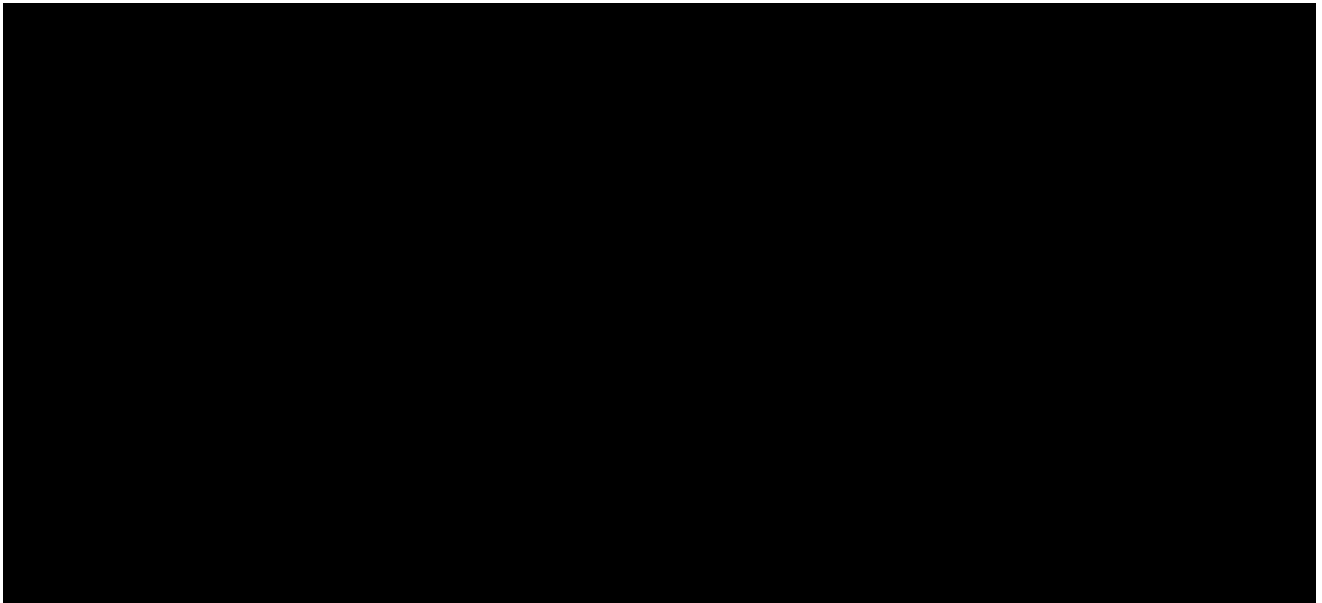
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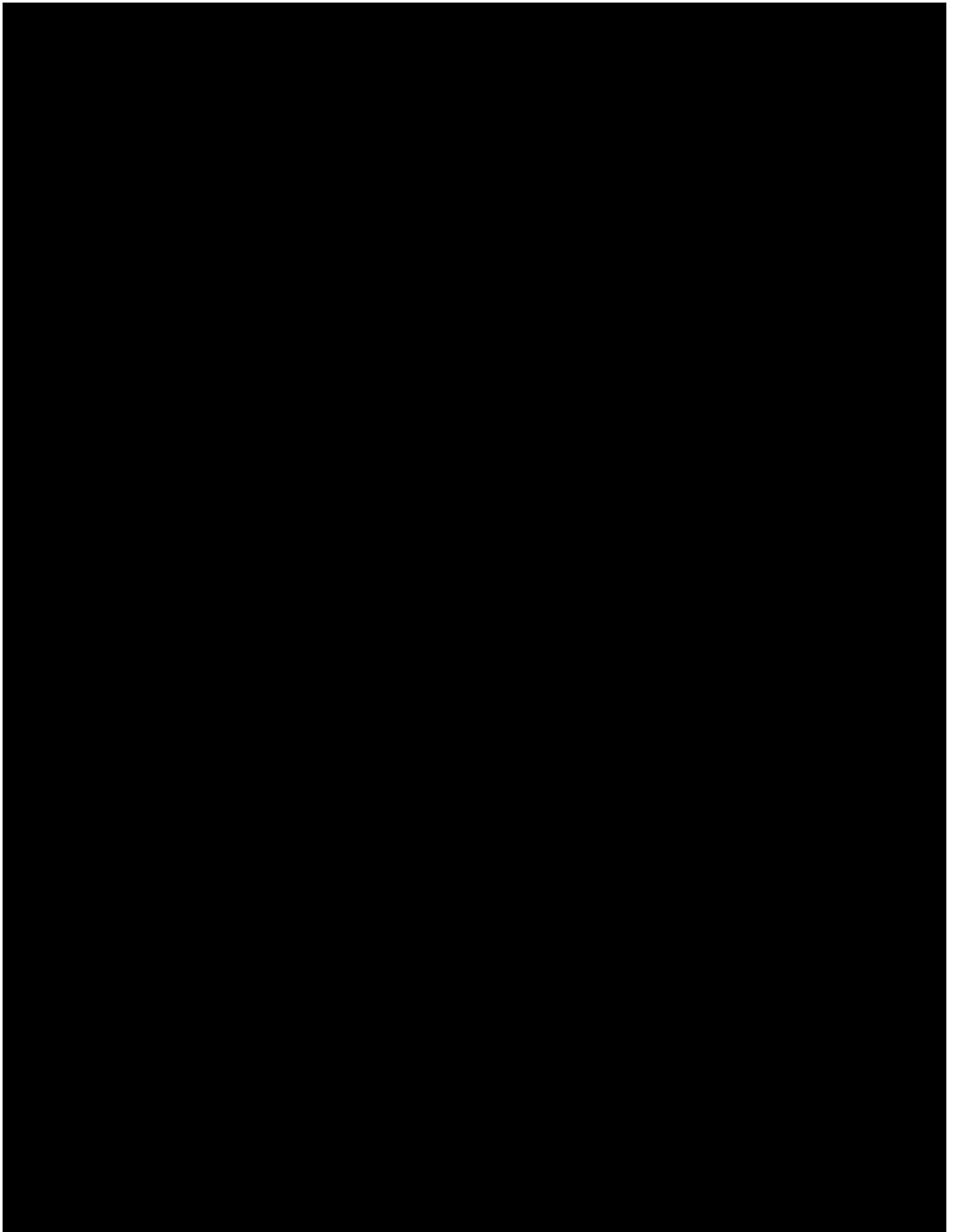






CONFIDENTIAL

V180914 20 September 2019



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.

Qualtrics Incident Response and Service Levels

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 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 Subscription Services 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.
 - a. If Downtime is 30 minutes or less, no Fee Credit Percentage is awarded.
 - b. If Downtime is from 31 to 120 minutes, Customer is eligible for a Fee Credit Percentage of 5%.
 - c. If Downtime is from 121 to 240 minutes, Customer is eligible for a Fee Credit Percentage of 7.5%.
 - d. If Downtime is 241 minutes or greater, Customer is eligible for a Fee Credit Percentage of 10.0%
 - e. If, in each of three consecutive months, (i) Downtime is 241 minutes or greater or (ii) Scheduled Maintenance is greater than 8 hours, Customer is eligible for a pro-rated refund and may terminate this Agreement for cause.
5. **Fee Credits.** Except as specified in Section **Error! Reference source not found.** above, Fee Credits will be Customer’s sole and exclusive remedy if Qualtrics fails to meet the Service Levels. Fee Credits will be applied to Customer’s next invoice.

Incident Response

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

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.