

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements**  
**(for U.S. Government End Users)**  
**Revised 20160504**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
  
- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
  - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2H ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
  
  - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.
  
  - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w)(1)(iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

**(r) Limitation of Liability: Subject to the following:**

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

**(s) Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

**(t) Public Access to Information.** Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

**(u) Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

# Terms of Service

## 1. **Acceptance of Terms**

Please read these Terms of Service (“**Terms**”) carefully before using [www.qualtrics.com](http://www.qualtrics.com) (the “**Website**”) or the products or services offered by Qualtrics (the “**Services**”).

## 2. **Description of Qualtrics Services**

2.1 Qualtrics, LLC (“**we**” or “**us**”) provides a variety of Services, including access to proprietary computer software programs developed by us that facilitate and automate the process of conducting surveys, polls, assessments, intercepts, and related systems, security, updates and support services, via a web browser and the Internet.

2.2 For purposes of these Terms, “**you**” means you and the entity you represent and also refers to any person accessing the Services by any method on your behalf.

2.3 For purposes of these Terms, data includes all survey responses, reports, and any other information input or generated on behalf of you in connection with the Services (“**Data**”).

2.4 Subject to your compliance with these Terms and your payment of any applicable fees, Qualtrics grants you a non-exclusive, non-transferable, royalty-free, revocable license to use the Services for your own internal business purposes.

2.5 Qualtrics may make modifications to the Services at any time, as it deems appropriate, and in its sole discretion.

## 3. **Your Data**

3.1 You own all right, title and interest in all Data entered into the Service including the survey look and feel, respondent information, and survey responses. In addition, all reports and downloads derived from your Data are also owned by you. All such Data are deemed Confidential Information (defined below) and will not be utilized by Qualtrics for any purpose other than to perform its obligations under these Terms.

3.2 We do not sell or make available specific information about our customers or their Data, except as required pursuant to a regulation, law or court order. We maintain a database of user information that is used only for internal purposes such as technical support, and

notifying users of changes or enhancements to the Services.

#### 4. **Use of the Services**

4.1 The Services are designed to be used by you using a modern web browser, operating system and an Internet connection.

4.2 You are responsible for controlling access to your account, including creating a strong password, protecting that password, and preventing unauthorized account usage or users.

4.3 You are responsible for creating backups of your Data.

4.4 If using the Services to email third parties, you are responsible to ensure that the third parties have opted in to, or otherwise validly consented to, receiving communications from you.

#### 5. **Unacceptable Usage**

5.1 You are solely responsible for all Data, and are liable for your Data and the manner in which you collect or distribute your Data to third parties. We do not monitor your Data; however, we reserve the right to remove any Data from our Service that we determine is in violation of these Terms.

5.2 If you violate these Terms, you may be subject to legal liability and prosecution.

5.3 The following is a non-exhaustive list of content and use of the Services that are unacceptable and a violation of these Terms:

- a. Use of the Services that violates applicable law;
- b. Reverse engineer or tamper with the security of the Services;
- c. Resell the Services or permit third parties to use the Services without our prior written consent;
- d. Make unauthorized copies of any content in the Services;
- e. Except for legal and valid research purposes, upload Data that contains or contains links to nudity, pornography, adult content, sex, profanity, or foul language;
- f. Upload, send or store malicious software or Data that condones, promotes, contains, or links to warez, cracks, hacks, their associated utilities, or other piracy related information, whether for educational purposes or not;
- g. Upload Data that infringes any copyrights, trademarks, patents, trade secrets or other intellectual property;
- h. Upload Data that is racist or otherwise extremely offensive to others, including content that aggravates, harasses, threatens, defames or abuses others;
- i. Upload or display Data that exploits images of children under 18 years of age;
- j. Upload binary files or executable code;
- k. Perform vulnerability tests, network scans, penetration tests, or other investigative techniques on our software or Services.

5.4 You must comply with all applicable laws including those governing spam. Spam includes without limitation unsolicited mass e-mail or other messages, promotions, advertising, or solicitations. You agree not to send email messages to any person that has opted out or otherwise objected to receiving messages from you or another sender on whose behalf you may be acting. In plain words, you agree not to send spam.

5.5 If your use of the Services requires you to comply with specific regulations, you are solely responsible for such compliance, unless we agree otherwise. You may not use the Services in a way that would subject us to those specific regulations without our prior written agreement.

5.6 **Academic Users:** If you are an academic institution on an academic license, your use of the Services is restricted to academic or research purposes by your specific institution or department. Services may be used only by students, staff or faculty of your institution. Commercial use of the Services is prohibited and includes, without limitation, use of the Services on behalf of other institutions or entities for compensation.

## 6. **Qualtrics Software**

6.1 We own all right, title and interest in and to the Services as delivered, all related software and technology, and all of our content provided in connection with the Services, including all intellectual property rights in the foregoing. Nothing contained on this Website should be construed as granting any license or right to use any trademark without our prior written permission.

6.2 We and our licensors exclusively own all right, title, and interest in and to the Services, and any Services-related suggestions, ideas, enhancements, requests, feedback, and recommendations provided by you to us during your use of the Services.

6.3 We reserve the right to include traffic generated by all websites we host in our overall accounting of page views, unique users, and other usage measures. This includes providing web traffic measurement companies with all URLs hosted by us for use in our projection of our overall traffic.

## 7. **Confidential Information**

“Confidential Information” includes statements of work, service orders, other agreements between you and us, business and marketing plans and strategies, non-public business and technology information, trade secrets, Data, any written materials marked as confidential and any other information, including visual and oral information, which reasonably should be understood to be confidential. Each of you and us will use commercially reasonable efforts, including appropriate technology and industry practices, to ensure the confidentiality, integrity and security of all Confidential Information. We maintain a comprehensive privacy policy at [www.qualtrics.com/privacy-statement](http://www.qualtrics.com/privacy-statement). The above confidentiality obligations do not apply to information which either you or us, as a recipient of such information from the other party, can document and prove: (i) was rightfully in its possession or known to it prior to receipt of such information; (ii) is or has become public knowledge through no fault of the recipient; (iii) is rightfully obtained by the recipient from

a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of the recipient who had no access to such information; or (v) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and, if permitted by applicable law, with advance notice to the recipient).

## 8. **Indemnification**

To the extent allowed by law, you agree to indemnify and hold us harmless against any and all claims and expenses, including reasonable attorneys' fees, arising from the use of the Services. This indemnification expressly includes your responsibility for any and all liability arising from the violation or infringement of copyrights, trademarks or other proprietary rights and from the use of any libelous or unlawful material contained within your Data.

## 9. **Termination**

[Intentionally omitted]

## 10. **Limitations of Warranties**

WE MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, ACCURACY, OR COMPLETENESS OF THE WEBSITE, SOFTWARE OR SERVICES. WE DO NOT REPRESENT OR WARRANT THAT: (A) YOUR USE OF THE SERVICES SHALL BE TIMELY, UNINTERRUPTED, OR ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS, OR DATA; (B) THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR (C) ALL NON-CONFORMITIES CAN BE OR WILL BE CORRECTED. ALL SERVICES PROVIDED BY US HEREUNDER ARE STRICTLY ON AN "AS IS" BASIS. EXCEPT TO THE EXTENT PROHIBITED BY LAW, WE EXPRESSLY DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, CONDITIONS AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, AND MERCHANTABILITY. WE DO NOT MAKE ANY WARRANTIES, REPRESENTATIONS OR CONDITIONS WITH RESPECT TO ANY THIRD PARTY CONTENT, EXPRESS OR IMPLIED.

## 11. **Limitation of Liability**

WE DISCLAIM ANY LIABILITY FOR DAMAGES CAUSED BY OUR SERVICES OR THE CONTENTS OF THIS WEBSITE, UNLESS DUE SOLELY TO OUR INTENTIONAL WRONGDOING. OUR AGGREGATE LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF OR RELATED TO THE SERVICES OR WEBSITE IS LIMITED TO YOUR DIRECT DAMAGES AND SHALL NOT EXCEED THE FEES YOU HAVE PAID US IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL WE BE LIABLE FOR LOST PROFITS, LOST DATA, INTERRUPTIONS OF



BUSINESS, OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THIS WEBSITE OR THE SERVICES, REGARDLESS OF WHETHER WE HAVE NOTICE OF THE POTENTIAL FOR SUCH LOSS OR DAMAGE.

## 12. **Other Terms**

**12.1 Entire Agreement:** These Terms and any other relevant terms, conditions, policies or agreements constitute the entire agreement and understanding between you and us. If there is a conflict or contradiction between the provisions of these Terms and any other agreement, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence.

**12.2 Assignment:** You are not permitted to sublicense the Services to third parties without our prior written permission.

**12.3 Choice of Law and Forum:** These Terms will be governed by the laws United States.

**12.4 Modifications to this Agreement:** We may modify these Terms at any time. We last modified the Terms on the date listed at the end of these Terms.

**12.5 Severability:** In the event that any one or more of these provisions should be held invalid, illegal or unenforceable, the remaining provisions contained herein will not in any way be affected or impaired.

**12.6 Waiver:** Our failure to enforce strict performance of any provision of these Terms does not constitute a waiver of the right to subsequently enforce such provision.

**12.7 Third Party Beneficiaries:** These Terms create no rights for third party beneficiaries.

**12.8 Export Regulations:** You must comply with all export and re-export restrictions and regulations of the Department of Commerce and other United States agencies and authorities that may apply to the Services.

If you are a United States federal government agency, your use of the Services is subject to the attached Amendment to Qualtrics Terms of Service Applicable to US Government Users

Revised May 17, 2016

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# Amendment to Qualtrics Terms of Service Applicable to US Government Users

This Amendment to the attached Qualtrics' Terms of Service ("**Terms**") is an agreement between Qualtrics and the U.S. Government and it applies to the use of the company's Website and Services by U.S. Government entities ("**you**" or the "**Agency**").

The reason for this Amendment is that the Agency must follow federal laws, regulations, rules, and practices when entering into a binding agreement with a provider such as Qualtrics. This Amendment allows Agencies to use the Website and Services under Federal-compatible terms that respect each Agency's legal status, its public mission, and other circumstances unique to the U.S. Government.

**A. Government entity:**

As applied to the Agency, the word "you" in the Terms means the Agency itself and shall not apply to nor bind Agency employees or other individuals who use the Website and Services on Agency's behalf. Instead, Qualtrics will look solely to the Agency as the party it will pursue if Qualtrics believes there's been a violation or breach of the Terms.

**B. Public purpose:**

The Agency agrees to use the Website and Services solely to fulfill the Agency's public purpose. Any requirement(s) set forth within the Terms that use of the Services be for private, personal and/or non-commercial purposes is hereby waived.

**C. Agency Data serving the public:**

Qualtrics will allow the Agency to distribute or publish, via the Website and Services, Data that may contain or constitute promotions, advertisements or solicitations for goods or services so long as the Data relates to the Agency's mission.

**D. Advertisements:**

Neither Qualtrics nor the Agency wants the Government's Data to be confused with other parties' data. To minimize that risk, Qualtrics agrees not to serve or display any commercial advertisements or solicitations in any publicly available portion of the Website displaying data uploaded by or under the control of the Agency. This exclusion does not extend to house ads which Qualtrics may place in a non-intrusive manner.

**E. No endorsement:**

Qualtrics agrees that your Agency's name, seals, trademarks, logos, service marks, trade names, and the fact that you have a presence on the Qualtrics Website and use its Services, shall not be used by Qualtrics in such a manner as to state or imply that Qualtrics's products or services are endorsed, sponsored or recommended by you or by any other element of the U.S. Government, or are considered by you or the U.S. Government to be superior to any other products or services. Except for pages whose design and data is under the control of the Agency, or for links to or promotion of such pages, Qualtrics agrees not to display any Agency or government seals, trademarks, logos, service marks, and trade names on the Qualtrics's homepage or elsewhere on the Website unless permission to do has been granted by the Agency or by other relevant federal government authority. Qualtrics may, after obtaining the Government's written consent, list the Agency's name in a publicly available customer list on its homepage or elsewhere so long as the name is not displayed in a more prominent fashion than that of any other third party name.

**F. Indemnification, Liability, Statute of Limitations, Disputes:**

Any provisions in the Terms related to indemnification and filing deadlines are hereby waived, and shall not apply except to the extent expressly authorized by law. Liability for any breach of the Terms as modified by this Amendment, or any claim arising from the Terms as modified by this Amendment, shall be determined under the Federal Tort Claims Act, or other governing federal authority. Federal Statute of Limitations provisions shall apply to any breach or claim. Any arbitration, mediation or similar dispute resolution provision in the Terms is hereby deleted.

**G. Governing law:**

The Terms and this Amendment shall be governed by and interpreted and enforced in accordance with the laws of the United States.

**H. Access and use:**

Qualtrics understands the Agency's use of Qualtrics Services may energize significant citizen engagement and otherwise become important to the Agency's mission.

**I. Provision on crawlers:**

Any provision in the Terms prohibiting "crawl," "spider" or similar processes is amended to allow the Agency to apply such tools solely to its pages and Data, and solely to fulfill Agency's obligations under the Federal Records Act or other applicable federal law or regulation.

**J. Ownership of names:**

Any provision in the Terms related to Qualtrics' ownership of and right to change your selected user name(s), user ID(s), domain name(s), channel name(s), and group name(s), are modified to reasonably accommodate Agency's proprietary, practical, and/or operational interest in its own publicly-recognized name and the names of Agency programs.

**K. Modifications of Agency's Data:**

Any right Qualtrics reserves in the Terms to modify or adapt the Agency's Data is limited to technical actions necessary to index, format and display that data. The right to modify or adapt does not include the right to substantively edit or otherwise alter the meaning of the Data. In the event Agency discovers that Agency's Data has been modified in a manner that alters the meaning of such Data, Agency may contact Qualtrics and the two parties shall work together in good faith to resolve the matter. Notwithstanding the foregoing, nothing in this Amendment shall result in an expansion of Agency's rights as a United States Government entity under the Copyright Act of 1976 (17 U.S.C. §§101 et sec.), specifically including Section 105 of the Act.

**L. Limitation of liability:**

The Parties agree that nothing in the Limitation of Liability clause or elsewhere in the Terms in any way grants Qualtrics a waiver from, release of, or limitation of liability pertaining to, any past, current or future violation of federal law.

**M. Uploading, deleting:**

The Parties understand and agree that you are not obligated to place any Data on the Website, and you reserve the right to remove any and all of your Data at your sole discretion.

**N. No business relationship created:**

The Parties are independent entities and nothing in the Terms as modified by this Amendment creates a partnership, joint venture, agency, or employer/employee relationship.

**O. No cost agreement:**

Nothing in the Terms as modified by this Amendment obligates you to expend appropriations or incur financial obligations. The Parties acknowledge and agree that none of the obligations arising from the Terms as modified by this Amendment are contingent upon the payment of fees by one party to the other.

**P. Provision of data:**

In the event of termination of service, within 30 days of such termination Qualtrics will provide you with all user-generated Data that is publicly visible on the Website. Data will be provided in a commonly used file or database format as Qualtrics deems appropriate. Qualtrics will not provide data if doing so would violate the attached Privacy Statement.

**Q. Paid Services and Agency responsibilities under fee-based:**

This Amendment applies to an Agency's use of both free and fee-based services that Qualtrics may offer. Qualtrics will provide Agency with at least 30 days advance notice of a change involving the charging of fees for currently free services. The Parties understand that fee-based products and services are categorically different than free products and services, and are subject to federal procurement rules and processes. Before an Agency decides to enter into a premium or enterprise subscription or any other fee-based service that Qualtrics or alternative providers may offer now or in the future, the Agency agrees to determine if it has a need for those additional services for a fee, to consider the subscription's value in comparison with comparable services available elsewhere, to determine that Agency funds are available for payment, to properly use the Government Purchase Card if that Card is used as the payment method, to review any then-applicable Terms for conformance to federal procurement law, and in all other respects to follow applicable federal acquisition laws, regulations, and agency guidelines when acquiring fee-based services.

**R. Assignment:**

Neither Party may assign its obligations under the Terms as modified by this Amendment to any third party without prior written consent of the other.

**S. Termination rights:**

Agency may close Agency's account and terminate this Amendment at any time.

**T. Security:**

Qualtrics will, in good faith, exercise due diligence using generally accepted commercial business practices for IT security, to ensure that systems are operated and maintained in a secure manner, and that management, operational and technical controls are employed to ensure security of systems and data. Recognizing the changing nature of the Web, Qualtrics will continuously work with you to ensure that its Services meet your requirements for the security of systems and data.

**U. Federal Records:**

Agency acknowledges that use of Qualtrics's Services may require management of Federal records. Agency and user-generated Data may meet the definition of Federal records as determined by the agency. If Qualtrics holds Federal records, the Agency must manage those Federal records in accordance with all applicable records management laws and regulations, including but not limited to the Federal Records Act (44 U.S.C. chs. 21, 29, 31, 33), and regulations of the National Archives and Records Administration (NARA) at 36 CFR Chapter XII Subchapter B). Managing the records includes, but is not limited to, secure storage, retrievability, and proper disposition of all Federal records including transfer of permanently valuable records to NARA in a format and manner acceptable to NARA at the time of transfer. The Agency is responsible for ensuring that its use of the Services is compliant with applicable records management laws and regulations through the life and termination of its relationship with Qualtrics.

**V. Intellectual property ownership:**

Except as expressly allowed in the Terms, no rights to any derivative works, inventions, or Qualtrics product modifications are conferred on the Agency or any other party. All such rights belong solely to Qualtrics.

**W. Precedence; Further Amendments:**

If there is any conflict between this Amendment and the Terms, or between this Amendment and other terms, rules or policies posted on the Qualtrics Website or related to its Services, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence. This Amendment constitutes an amendment to the Terms; any language in the Terms indicating it may not be modified or that it alone is the entire agreement between the Parties is waived. Any further amendment must be agreed to by both Parties.

**X. Additional Items for discussion and possible inclusion in this Amendment:**

Qualtrics understands evolving federal law, regulation and policy may affect the Agency's use of the Services in ways not addressed in the list of clauses above. Among the topics Agency may need to discuss with Qualtrics are Privacy and Accessibility.

# PRIVACY STATEMENT

This privacy statement explains how Qualtrics handles personal data collected during the normal course of business (sales, marketing, and support), as well as how data are processed in its products and services. Qualtrics participates in the EU-U.S. Privacy Shield framework, and retained the American Arbitration Association/International Centre for Dispute Resolution.

## Qualtrics Products

Qualtrics creates the most advanced online survey software for corporations, research companies, and universities. The software is provided in an Application Service Provider (ASP) model, accessed using a modern browser via the Internet. All of Qualtrics products are self-service, whereby the end-users are solely responsible for what data to collect and from whom. Survey respondents may use mobile devices to complete a survey.

All customer data collected using the software are stored in a single secure data center; data do not “float” around in the cloud. Surveys may be distributed in numerous ways: via email, a web link, or off-line mobile app. Surveys may require a password or other authentication by the respondent.

## Data Collected During Normal Business Transactions (Unrelated to the Software)

For the [www.qualtrics.com](https://www.qualtrics.com) (<https://www.qualtrics.com>) site: Qualtrics collects and analyzes aggregate information of visitors, including the domain name, visited surveys, referring URLs, and other publicly available information. We use this information to help improve our website and services, and to customize the content of our pages for each individual customer. Cookies may be used to customize content delivered to website visitors.

Qualtrics does not sell or make available specific information about our customers or their clients except as requested by a valid court order or otherwise required by law. We maintain a database of user information which is used only for internal purposes such as technical support, marketing-related activities, and to notify customers of changes or enhancements to the services.

Qualtrics uses secure services for online credit card payment transactions, and does not record or store credit card information on its site or servers.

## Data Collected by Customers

For this section, customers are end-users with valid Qualtrics accounts. Customers own and control all information they input into the Qualtrics software (“Data”), and any information generated from that Data. Depending on how the Customer chooses to use the software, Data may include personal information.

Customers manage all Data, as well as the users who create, manage, distribute, or report the Data. Qualtrics treats all Data as highly confidential and does not classify or represent the Data because only the Customer itself knows what data it’s collecting. In other words, Qualtrics provides the services, and Customers use the services as they wish. All Data are safeguarded using industry best security practices that prevent unlawful disclosure.



Qualtrics is presently undergoing certification under the FedRAMP program, the “gold standard” of security compliance. FedRAMP has over 900 controls based on the highly regarded NIST 800-53, and requires constant monitoring and periodic independent assessments. More information is found at <https://www.fedramp.gov/marketplace/inprocess-systems/qualtrics-qualtricsinsight-platform/> (<https://www.fedramp.gov/marketplace/inprocess-systems/qualtrics-qualtricsinsight-platform/>) Qualtrics will only process Data for the sole purpose of providing the software and services. Customers must ensure that they follow applicable laws when distributing surveys. This includes following applicable law when collecting personal and health information, preventing unsolicited emails from being sent, and deleting personal information when no longer required.

Qualtrics will never transfer Data to a third-party without the written permission of the customer. In other words, there is no onward transfer.

Qualtrics employees do not actively view Customer Data. Any access to Customer accounts requires consent by the end-user, and any exposure to personal information is incidental to providing the services. Customers have the ability to disable Qualtrics support from accessing their accounts. But by doing so, it may hinder timely responses and the quality of support.

## Complaints and Inquiries

If you are an EU citizen, and have questions about your personal information that may have been collected in a Qualtrics survey, please contact the entity that created or sent you the survey. Qualtrics is not responsible for any Data collected and only processes Data as controlled by the customer. If the survey creator is unresponsive with your inquiry, please contact Qualtrics Support. General inquiries regarding this policy, or any complaints regarding surveys that are unresolved by the survey creator, may be sent to Qualtrics Support by visiting <https://www.qualtrics.com/support/> (<https://www.qualtrics.com/support/>) and clicking on “Contact Us” or by calling the number listed on the main [www.qualtrics.com](https://www.qualtrics.com/) (<https://www.qualtrics.com/>) web site.

There is no charge for this inquiry. Qualtrics has a team of legal and technical staff to maintain compliance with this policy. For legal inquiries, please contact: [notice@qualtrics.com](mailto:notice@qualtrics.com)

*Independent Recourse Mechanism:* Any disputes are handled by the International Centre for Dispute Resolution (details below). Inquiries are free of charge.

## Information Related to Privacy Shield

For details about the Privacy Shield program: <https://www.privacyshield.gov/> (<https://www.privacyshield.gov/>) Qualtrics’ Privacy Shield self-certification does not cover human resources data.

Under Privacy Shield, Qualtrics must respond to individual complaints within 45 days. Qualtrics self-certifies with Privacy Shield. A self-assessment is signed by a corporate officer or other authorized representative of the organization at least once a year and made available upon request by individuals or in the context of an investigation or a complaint about non-compliance.

Qualtrics is required to respond promptly to EU individual inquiries, and other requests for information from the Department of Commerce relating to its adherence to the Privacy Shield Principles.



Under Privacy Shield, an individual has the possibility, under certain conditions, to invoke binding arbitration for complaints regarding Privacy Shield compliance not resolved by any of the other Privacy Shield mechanisms. For additional information, visit: <https://www.privacyshield.gov/article?id=ANNEX-I-introduction> (https://www.privacyshield.gov/article?id=ANNEX-I-introduction) Qualtrics' Independent Dispute Resolution (IDR) Provider is: American Arbitration Association International Centre for Dispute Resolution New York City, New York, USA [www.icdr.org](http://www.icdr.org) (<http://www.icdr.org>) U.S. Department of Commerce: <https://www.commerce.gov/news/factsheets/2016/07/fact-sheetoverview-eu-us-privacy-shieldframework> (https://www.commerce.gov/news/fact-sheets/2016/07/fact-sheetoverview-eu-us-privacy-shieldframework) Federal Trade Commission: <https://www.ftc.gov/newsevents/pressreleases/2016/02/statement-ftcchairwoman-edith-ramirez-eu-usprivacy-shield-0> (https://www.ftc.gov/newsevents/pressreleases/2016/02/statement-ftcchairwoman-edith-ramirez-eu-usprivacy-shield-0)

## Qualtrics EU Data Silo

Qualtrics offers customers wishing to process all data in Europe the EU Data Silo option. The basis for this option is to keep all collected Data in an EU data center and provide all support from our Dublin, Ireland office. Please contact your Qualtrics account executive for more details.