

salary.com™

Order Form

610 Lincoln St. North Building, Suite # 200 Waltham, MA 02451

Customer:	The Texas A&M University System	Order Type:	Renewal
Number of FTEs:	33,000	Total Annual Price:	USD 33,500.00
Subscription Start Date:	Dec 1, 2021	Subscription End Date:	Nov 30, 2024

Subscription Service	Term (Months)
CompAnalyst Enterprise	36
	Total Annual Price: USD 33,500

Billing Information:

- **FTE:** 33,000
- **Payment Term:** Net 30
- **Invoice Frequency:** Annually
- **Special Billing Instructions:** N/A
- **PO (if required):**

Renewals: This order may renew for two (2) additional 36-month periods upon mutual written agreement signed by both parties. The per-unit pricing during any renewal term will increase by up to 5% above the applicable pricing in the prior term, unless Salary provides Customer notice of different pricing at least 60 days prior to the applicable renewal term.

Terms: This Order is governed by the terms of the Data Subscription Agreement (the "DSA") attached hereto, the terms of which are incorporated into this Order for all purposes. If there is a conflict between the terms of this Order and the DSA, this Order governs. This Order and the DSA are the entire agreement between the parties, and they supersede and replace all prior and contemporaneous negotiations, agreements, representations and discussions regarding this subject matter. Only a signed writing of the parties may amend this Order.

FTE Count: If Customer's FTE count should increase beyond the number stated above, the Annual Price shall be the fee listed in table below.

FTE Count	Annual Price
30,001-35,000	\$ 33,500
35,001-40,000	\$ 38,500
40,001-45,000	\$ 43,000
45,001-50,000	\$ 47,000

Customer Contact:

Angela Crosby
301 Tarrow St., Rm. 234
College Station, Texas 77840
Phone: 1 979 458-6177
Email: acrosby@tamus.edu

Customer Billing Contact:

Angela Crosby
301 Tarrow St., Rm. 234
College Station, Texas 77840
Phone: 1 979 458-6177
Email: acrosby@tamus.edu

Account Executive: Matt Malley

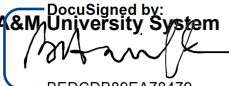
Email: matt.malley@salary.com
Phone: 781-552-4678

Account Manager: Ashley Endress

Email: ashley.endress@salary.com
Phone: 1.781.552.4619

IN WITNESS WHEREOF, the Parties hereto have caused this Order and DSA (the "Agreement") to be duly executed by their respective authorized representatives as of the Effective Date.

DocuSigned by:
The Texas A&M University System

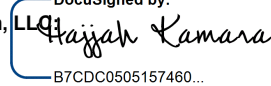
Signed: 
B7CDC0505157460...

By Name: Billy Hamilton

Title: Deputy Chancellor

Date: 12/13/2021

DocuSigned by:
Salary.com, LLC

Signed: 
B7CDC0505157460...

By Name: Hajjah Kamara

Title: Associate Counsel

Date: 12/14/2021

DocuSigned by:
The Texas A&M University System

Initials: 

Data Subscription Agreement

This Data Subscription Agreement (“DSA”) together with the terms of the Order starting December 1, 2021 between Salary.com, LLC (“Salary”), which owns, operates, or control’s various websites, including, without limitation, salary.com (the “Site(s)”) and The Texas A&M University System, a Texas state agency (“Customer”) (the “Agreement”), shall be effective as of the Subscription Start Date listed on the Order (the “Effective Date”). Salary and Customer have entered into this Agreement pursuant to RFP number SHRO-21-106 (the “RFP”) issued by Customer which shall be attached and incorporated by reference. Salary and Customer agree to be bound by the terms of this Agreement, as follows:

1. SOFTWARE SERVICE

Subject to this Agreement, Salary will provide Customer with access to use a subscription to Salary’s software-as-a-service offering and other services (the “Subscription Service”) and/or Consulting Services (as defined herein) as indicated on the attached Order (each separately and together, the “Service”) for the duration of the Subscription Term (as defined herein). As part of provision of the Service, Salary may provide Customer with access to various compensation, HR, and/or other information or data (the “Salary Data”) which Customer may only use solely and exclusively for its own internal purposes consistent with the terms of this Agreement.

2. USE OF SERVICE

2.1 Customer Data

All data and information uploaded or otherwise submitted into the Service by Customer (“Customer Data”) will remain the property of Customer. Customer represents and warrants to Salary that it has full power and authority to enter into the Agreement and to convey all rights granted to Salary in and to the Customer Data under the Agreement. Customer grants Salary the right to use, modify, anonymize, and aggregate Customer Data for purposes including, but not limited to providing aggregated and anonymized compensation analysis and information. Such aggregated and anonymized information (“Anonymized Data”) is deemed Salary Data and is excluded from Customer Data. Salary will never share any data provided to Salary, including without limitation, Customer Data, other than in an aggregated and anonymized format in accordance with applicable law. For the avoidance of doubt, under no circumstances will such aggregated and anonymized information include any personally identifiable information.

2.2 Access and Usage

Customer may allow its employees, agents and contractors to access the Service and any data contained therein in compliance with the terms of the Agreement, which access must be for the sole and exclusive benefit of Customer. Customer is responsible for the compliance with the Agreement and access and use of Salary Data by its employees, agents and contractors. To the extent authorized under the Constitution and laws of the State of Texas, Customer agrees to indemnify and hold harmless Salary for any and all loss, damage or liability incurred by Salary as a result of a breach of this Agreement by Customer or any other party to whom Customer has shared Salary Data.

Customer represents that it seeks access to the Service for the sole and exclusive purposes described in this Agreement. Customer’s access is subject at all times to: its employees being made aware that their access to any insubstantial part of Salary Data must adhere to the terms of this Agreement, particularly sections 2.2 and section 4.2, and that use of any such parts of Salary Data are properly attributed to Salary.

Salary Data cannot be shared with any third parties for any reason whatsoever without first securing a non-disclosure agreement between Customer, the third party, and Salary and which is satisfactory to Salary. Salary Data may not be used for any other purpose not described in this Agreement, including, without limitation, any purpose which may result in the development and provision of products or services competitive to Salary, the disparagement of Salary’s reputation, or injury to Salary in its business or public affairs.

2.3 Customer Responsibilities

Customer (i) must keep its passwords secure and confidential; (ii) is solely responsible for its use of Customer Data and all activity by its employees, agents, and contractors in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Salary promptly of any such unauthorized access; and (iv) must use the Service only in accordance with the Service's technical documentation and applicable law. Customer also must not host any Salary Data in a third party's software without first having in place a non-disclosure agreement signed by the third party, Customer, and Salary, which is satisfactory to Salary.

Salary has the right at any time to ask for and receive within 30 days of its request a full and complete report from Customer describing all third parties including consulting clients with access to Salary Data and for Salary to conduct an audit (at Salary's sole expense) of Customer's records to ensure compliance with the terms of this Agreement. Should an audit not be permitted, then it is assumed that such third party is acting in violation of the terms of this Agreement.

2.4 Salary Support

Salary will provide telephone support to Customer for the Service between 9:30am to 5:30pm EST, Monday to Friday (excluding company holidays). Such support may include general maintenance (bug fixes) releases, enhancements, new versions, additions and modifications and is provided at no additional fee. Salary will try to limit scheduled outages to evening hours (EST) and to provide Customer with notice of scheduled outages via the Services, email to the address on record, or any Sites.

2.5 Safeguards

Pursuant to Section 2054.138, *Texas Government Code*, Salary will take commercially appropriate and reasonable physical, technical, and administrative measures to safeguard, protect, and secure the Service and Customer Data, including without limitation, the security controls available at <https://it.tamus.edu/cybersecurity/standards-and-procedures/> (the "Security Controls"). Salary will periodically provide Customer with evidence of its compliance with the Security Controls within thirty (30) days of Customer's request. Salary will, within two (2) business days of discovery, report to Customer any use or disclosure of Customer Data not authorized by the Agreement or in writing by Customer. Salary's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the Customer Data used or disclosed, (c) who made the unauthorized use or received the unauthorized disclosure, (d) what Salary has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action Salary has taken or will take to prevent future similar unauthorized use or disclosure. Salary shall provide such other information, including a written report, as reasonably requested by Customer. Salary will only use Customer Data in accordance with the Agreement.

3. SALARY PROPERTY

3.1 The software, all Salary provided data, workflow processes, user interface, designs and other technologies and data provided to Customer by Salary, including the Service and Salary Data, are the proprietary property of Salary and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Salary (or its licensors as the case may be). Customer may not remove or modify any proprietary marking or restrictive legends in the Service. Salary reserves all rights unless expressly granted in the Agreement. The Agreement does not grant Customer any ownership rights in or to the Service or Salary Data, except as provided in Section 3.2.

3.2. Customer shall have the ability to create, save, download, export reports to pdf, excel or related programs to send to others with market data, as a part of the Service. Upon completion or termination of this Agreement, all documents prepared by the Salary for the benefit of Customer shall become the property of Customer. At Customer's option, such documents will be delivered to Customer Procurement Office. Customer acknowledges that the documents are prepared only for the contracted Services specified.

4. USE RESTRICTIONS

4.1 Prohibited Data

Customer shall not use the Service to upload any information other than Customer Data. Customer agrees not to use the Service to store, transmit, process, or otherwise handle (i) infringing material, unsolicited marketing emails, libelous material, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, and (ii) social security numbers, passport numbers, driver's license or other government identification numbers, physical or mental health information or other information subject to the Health Insurance Portability and Accountability Act or similar legislation, personal financial account information, debit or credit card numbers, or other information subject to the Gramm-Leach-Bliley Act or similar legislation, or any Special Categories of Data under applicable EEA data protection regulations (combined, "Prohibited Data"). Customer Data and Confidential Information expressly exclude Prohibited Data. To the extent permitted by law, Salary disclaims all liability arising from or related to the Prohibited Data.

4.2 Prohibited Use

Except as otherwise provided under this Agreement, Customer agrees that it will not (i) sell, resell, rent lease, lend, provide, commercially exploit or otherwise make available the Service or the Salary Data to a third party or use Salary Data in a service provider capacity or make them available to third parties (except its employees, agents, and contractors as expressly permitted in the Agreement); (ii) store any Salary Data in an archive, library, or any other storage mechanism; (iii) interfere with or disrupt the integrity or performance of the Service or use the Service or Salary Data in violation of applicable law; (iv) attempt to gain unauthorized access to the Service or their related systems or networks; (v) reverse engineer the Service; (vi) aggregate insubstantial parts of Salary Data for machine learning or artificial intelligence purposes; (vii) upload to the Service or use the Service in conjunction with any viruses, worms, malware, spyware, or other malicious or harmful files, programs, code, or similar material; or (viii) access the Service or the Salary Data for purposes of sharing with a competitor of Salary or to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

Except as otherwise provided under this Agreement, Customer may not copy, cut and paste, email, broadcast, adapt, edit, re-utilize, reproduce, disseminate, reverse engineer, sell, extract, paraphrase, or create any derivative works based on the Salary Data for any reason whatsoever including, but not limited to other analytics or artificial intelligence environments. Customer also agrees not to provide access to Salary Data to anyone else other than its employees who have an explicit need to know or use such Salary Data. If Customer becomes aware of scraping or any other automated collection of Salary Data, Customer must immediately report any and all such violations via email to privacy@salary.com. In the event that such a report is found to be materially accurate, the reporting individual shall be entitled to 30% of any settlement reached in such a case.

Salary monitors exports and downloads from the Sites and will not hesitate to take aggressive legal and/or other action including blocking all IP addresses, without prior notification, against those individuals and/or IP addresses used to take such illegal action, in the event that any inappropriate or unusual download activity is detected. While non-systematic downloading of insubstantial parts of Salary Data are acceptable, bulk and/or systematic downloads including, but not limited to downloading of the entire Salary Data database and/or an aggregated data set for commercial machine learning purposes, are not allowed. All data found on the site including, but not limited to Salary Data and job descriptions are the intellectual property of Salary. While certain forms of some data found on the site may be found in the public domain, to the extent permitted by applicable law, any misuse of any data found on the site in violation of this Agreement may be subject to damages including, but not limited to, \$2,000 per each copyrighted data point (which includes Salary Data including, but not limited to job titles, pay ranges, job descriptions and geographical information) used in violation of applicable copyright law as well as attorney fees and costs and in addition to any and all other penalties or fines available under copyright or other applicable law.

5. PAYMENT

5.1 General Payment

Customer must pay all fees based on the payment terms specified on the Order. If no payment terms are

specified on the Order, all fees are due as specified in Chapter 2251 of the Texas Government Code (the "Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment. Fees specified on the order are exclusive of taxes which will be charged as applicable. As an agency of the State of Texas, Customer is tax exempt. Tax exemption certification will be furnished to Salary upon request. All payment obligations are non-cancelable and non-refundable except as expressly specified in the Agreement. Unless otherwise specified in the applicable Order, all fees shall be invoiced in advance of the applicable billing period. Invoices will be sent to the email address provided to Salary and will be deemed received upon being sent by Salary. Upon termination of the Agreement for any reason, except for termination by Customer for material breach, Customer must pay Salary for any unpaid amounts through the remainder of the Subscription Term. To the extent consistent with the Texas Prompt Payment Act, Salary may suspend and/or terminate the order and/or Service if an invoice is more than fifteen (15) days past due. Unless expressly set forth otherwise, all amounts are in USD.

5.2 Additional Fees

Customer certifies that its number of full-time employees ("FTEs") is less than or equal to FTE Limit indicated in the applicable Order. Customer agrees that it will promptly notify Salary if its actual number of FTEs increases above the FTE Limit indicated in the applicable Order and that Salary may monitor its use of the Service in order to evaluate Customer's number of FTEs. Upon request, Customer must provide a report of its current FTE count. In the event that Customer's number of FTEs exceeds the FTE Limit indicated in the applicable Order, Salary will issue a revised Order for Customer review to increase Customer's FTE Limit to the next appropriate FTE Limit tier and charge Customer a corresponding fee for such increased FTE Limit and Customer agrees to pay such fee. Customer cannot downgrade or decrease the FTE Limit associated with its subscription to the Service at any time during a Subscription Term.

6. TERM AND TERMINATION

6.1 Term

The term of the Agreement will commence on the Subscription Start Date and expire on the Subscription End Date as specified in the applicable Order (such period, the "Subscription Term") unless otherwise terminated or extended pursuant to this Section 6.

6.2 Renewal

The Subscription Term may be extended for up to two (2) additional three (3) year terms, provided that any such extension is effective only upon mutually signed written amendment.

6.3 Termination for Material Breach

If either party is in material breach, the other party may terminate the applicable Order at the end of a written 30-day notice/cure period, if the breach has not been cured by the expiration of such notice/cure period. In the event that Salary terminates an Order in accordance with this paragraph, Customer will promptly pay all unpaid fees through the end of the Subscription Term. In the event that Customer terminates an Order in accordance with this Section 6, Salary will promptly refund paid fees prorated for the effective date of termination through the end of the Subscription Term.

6.4 In the event of an early termination under this Section, Salary shall continue to provide the Services through the effective date of termination.

6.5 Return of Customer Data

During the Subscription Term of the Agreement and for 30 days after termination or expiration of the Agreement, Salary will preserve and maintain Customer Data and upon written request from Customer will provide a copy of Customer Data. After such 30 day period Salary has no obligation to retain Customer Data

and shall destroy it. Salary shall confirm such destruction in writing to Customer.

6.6 Return Salary Property Upon Termination

Upon termination of this Agreement for any reason, Customer must destroy or return all property of Salary, including all Salary Data and will, upon Salary's request, confirm in writing its compliance with this destruction or return requirement.

6.7 Suspension for Violations

To the extent consistent with the Texas Prompt Payment Act, Salary may suspend the Service or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Service, Customer has violated a law or is in breach of the Agreement. Salary will attempt to contact Customer prior to suspension under this paragraph.

7. MUTUAL CONFIDENTIALITY

7.1 Definition of Confidential Information

Confidential Information means all non-public information disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("Confidential Information"). To the extent possible, information disclosed in intangible form (e.g., oral or visual) shall be identified as being Confidential Information at the time of disclosure, and shall be confirmed as such in writing to the Receiver within 30 days after such disclosure. Salary's Confidential Information includes without limitation the Service, its user interface design and layout, pricing information about the Service, and all Salary Data. Customer's Confidential Information includes without limitation Customer Data. Confidential Information does not include Anonymized Data.

7.2 Protection of Confidential Information

The Recipient must use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of a similar nature (but in no event less than reasonable care). Recipient agrees not to disclose or use any Confidential Information of the Discloser for any purpose except as permitted by the Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees, agents and contractors who need such access in order to deliver the Service and who are bound by confidentiality obligations no less restrictive than the confidentiality terms of this Agreement.

7.3 Exclusions

Confidential Information excludes information that: (i) is or becomes generally known or available to the public without breach of any obligation owed to Discloser, (ii) was or becomes known or available to the Recipient without, to Recipient's reasonable knowledge, breach of any obligation owed to the Discloser, or (iii) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will, to the extent not prohibited by law, provide Discloser with reasonable advance notice in order to allow Discloser an opportunity to seek a protective order.

8. NOTICE

Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. Customer and Salary can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

Notice to Salary
Salary.com, LLC
Attn: Legal Department
610 Lincoln St. North, Suite # 200
Waltham, MA 02451
With a copy to billing@salary.com

Notice to Customer
The Texas A&M University System
301 Tarrow Street
College Station, TX 77840
Attn: Jeff Zimmermann
Facsimile Number: 979-458-6101
Email Address: jzimmermann@tamus.edu

9. Insurance.

Salary shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of professional liability (E&O), all coverage must be written on an occurrence basis. All coverage must be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the *Texas Insurance Code* and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Customer. Salary acknowledges that Customer has not, by requiring such minimum insurance, assessed the risk that may be applicable to Salary under this Agreement. Salary shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Salary is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

A. Worker's compensation insurance with the following minimum limits of coverage:

Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident
	\$1,000,000 Disease/Employee
	\$1,000,000 Disease/Policy Limit

Workers' compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for Customer. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted.

B. Business auto liability insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for bodily injury and property damage.

C. Commercial general liability insurance with the following minimum limits of coverage:

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy must be issued on a form that insures Salary's

or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

- D. Cyber and privacy liability insurance with minimum limits of coverage of \$1,000,000 per event, \$1,000,000 aggregate covering network security/privacy liability, privacy regulatory proceedings (including fines and penalties), privacy event expenses (mandatory/voluntary notification costs, credit monitoring, call center services, forensic, and any other fees, costs, or expenses necessary to comply with any security breach notification law that may be applicable), and cyber extortion payments. Salary shall maintain such coverage for such length of time as necessary to cover any and all claims.
- E. Salary shall deliver to Customer evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Salary under this Agreement. Salary shall provide additional evidence of insurance on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than 30 days after each annual insurance policy renewal.
- F. All insurance policies (with the exception of worker's compensation, employer's liability and professional liability) must be endorsed and name the Board of Regents of The Texas A&M University System ("Board of Regents") for and on behalf of A&M SYSTEM as additional insureds up to the actual liability limits of the policies maintained by Salary. Commercial general liability and business auto liability must be endorsed to provide primary and non-contributory coverage. The commercial general liability additional insured endorsement must include ongoing and completed operations and be submitted with the certificates of insurance.
- G. All insurance policies must be endorsed to provide a waiver of subrogation in favor of the Board of Regents and A&M SYSTEM. No policy may be canceled without unconditional written notice to Customer at least ten (10) days before the effective date of the cancellation. All insurance policies must be endorsed to require the insurance carrier providing coverage to send notice to Customer ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.
- H. Any deductible or self-insured retention must be declared to and approved by Customer prior to the performance of any services by Salary under this Agreement. Salary shall pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions must be shown on the certificates of insurance.
- I. Certificates of insurance and additional insured endorsements as required by this Agreement must be mailed, faxed, or emailed to the following Customer contact:

The Texas A&M University System
301 Tarrow Street
College Station, TX 77840
Attn: Jeff Zimmermann
Facsimile Number: 979-458-6101
Email Address: zimmermann@tamus.edu
- J. The insurance coverage required by this Agreement must be kept in force until all services have been fully performed and accepted by Customer in writing.

10. DISCLAIMER

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, SALARY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, WITHOUT

LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NON-INFRINGEMENT. WHILE SALARY TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, SALARY DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED NOR THAT IT IS FREE OF VIRUSES OR MALICIOUS CODE EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN. CUSTOMER UNDERSTANDS THAT THE SERVICE AND SALARY DATA MAY NOT BE ERROR FREE, AND USE OF THE SERVICE MAY BE INTERRUPTED. THOUGH SALARY TAKES REASONABLE STATISTICAL AND OTHER REASONABLE MEASURES TO ENSURE THE DATA IS ACCURATE AND REPRESENTATIVE, IT CANNOT AND DOES NOT GUARANTY THAT THE SALARY DATA IS ACCURATE OR REPRESENTATIVE. THE SERVICE AND SALARY DATA IS PROVIDED "AS IS".

11. PRODUCT SPECIFIC TERMS

Salary agrees that the Services provided shall be as described in the Order and in accordance with the requirements of the RFP. In addition, and to the extent not in conflict with this Agreement, Salary offers a variety of products and services some of which require additional terms specific to the relevant product or service. This clause sets forth additional terms that apply to Customer's use of the specified products, (s) and service(s) and, in the event of a conflict between this clause (including the sub-clauses below) and any other clause of this Agreement, the Agreement will control.

11.1 Free Services - OMITTED

11.2 Alpha and Beta Services - OMITTED

11.3 Surveys - OMITTED

11.4 Consulting Services - OMITTED

11.5 Certain Website Services - OMITTED

11.6 Big Data, AI, Machine Learning and Analytics Vendors - OMITTED

12. INDEMNITY

Salary shall indemnify and hold harmless Customer and its regents, employees and agents (collectively, the "A&M System Indemnities") from and against any third-party claims, damages, liabilities, expense or loss (collectively, "Damages") asserted against A&M System Indemnities arising out of any gross negligence or willful misconduct of Salary or its employees or agents pertaining to the activities and obligations under this Agreement, except to the extent such liability, loss or damage arises from an A&M System Indemnitee's gross negligence or willful misconduct. In addition, Salary shall indemnify and hold harmless the A&M System Indemnitees from all Damages in connection with any third-party demand, claim or legal or administrative agency action or proceeding to the extent arising from or related to an allegation that any of the Services infringe upon or violate the intellectual property rights of a third party.

Customer must promptly notify Salary of the claim in writing, cooperate with Salary in the defense, and allow Salary, subject to the consent of the Attorney General of the State of Texas, to solely control the defense or settlement of the claim provided that Salary may only (without Customer's prior written consent) accept any related settlement that (1) does not entail any admission on the part of Customer that Customer violated any law or infringed the rights of any person, (2) provides as the claimant's sole relief monetary damages that are paid in full by Salary, and (3) requires that the claimant release Customer from all liability alleged in the claim . Process: If such a claim appears likely, then Salary may modify the Salary Data, procure the necessary rights, or replace it with the functional equivalent. If Salary determines that none of these are reasonably available, then Salary may terminate the applicable Order and refund any prepaid and unused fees. Exclusions. Salary has no obligation for any claim arising from Customer's use of Customer Data or items, data, or materials not provided by Salary. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND SALARY'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

13. GOVERNING LAW AND FORUM

13.1 Governing Law

The Agreement is governed by the laws of the State of Texas (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of the Agreement.

13.2 Venue

Pursuant to Section 85.18(b), *Texas Education Code*, venue for a suit filed against Customer is in the county in which the primary office of the chief executive officer of Customer is located. At the execution of this Agreement, such county is Brazos County, Texas.

13.3 Injunctive Relief and Costs

Nothing in the Agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction.

13.4 Disputes

Salary shall use the dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General to attempt to resolve any claim for breach of contract made by Salary that cannot be resolved in the ordinary course of business. Salary shall submit written notice of a claim of breach of contract under this chapter to Customer's Deputy Chancellor and Chief Financial Officer, who will examine Salary's claim and any counterclaim and negotiate with Salary in an effort to resolve the claim.

14. ENTIRE AGREEMENT AND CHANGES

The Agreement constitutes the entire and only agreement between the parties and supersedes any prior written or oral agreements, or "side deals" which are not described in the Agreement. This Agreement may be altered only by a subsequent written agreement signed by all parties, and no waiver is effective unless the party waiving the right signs a waiver in writing.

15. OTHER TERMS

15.1 Press Releases

Customer agrees to allow use of Customer's name by Salary in press releases and in discussions with Salary customers, prospective customers and industry/financial analysts and to permit inclusion of Customer's name on Salary's websites, customer lists, sales and marketing materials and related disclosures. Such use or inclusion may only be in factual statements that, in context, are not misleading or imply an endorsement by Customer.

15.2 No Assignment

Neither party may assign or transfer the Agreement to a third party without the written consent of the other party; except that, provided the other party is given advance written notice, a party may, without prior consent, make such assignment to an entity which succeeds to all or substantially all of that party's assets or ownership interests whether by merger, sale or otherwise, so long as such successor is not a competitor of the other party. Consent by a party to one or more assignments will not operate as a waiver of that party's rights as to any subsequent assignments. In the event that any assignment or transfer of the Agreement results in an increased number of FTE, Salary may, in accordance with the Additional Fees section herein, charge Customer for the increased number of FTEs and Customer agrees to pay such charge.

15.3 Compliance with Law

Salary will comply with all applicable U.S. federal, state, and local laws, including data privacy and security-related laws, rules, and regulations, in relation to Salary's delivery of the Service. Customer agrees that Salary may, in accordance with the terms of this Agreement, disclose any information necessary to satisfy any applicable legal process, court order, governmental request, law, or regulation. Customer agrees that it will comply with all applicable laws in the course of Customer's use of the Service. The parties further agree that they will comply with all applicable export laws including, but not limited to, the sanctions programs administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury and Customer agrees that it will not directly or indirectly export, re-export, or transfer the Service to any prohibited countries or individuals or permit use by prohibited countries or individuals. Salary may not disclose Export-Controlled Information to Customer unless the parties have agreed in advance and in writing on the terms for the handling of the Export-Controlled Information. "Export-Controlled Information" means software, technical data, technology, and other information that is (a) subject to the U.S. Export Administration Regulations and

classified under any ECCN in the Commerce Control List other than EAR99 or 5D992, (b) controlled under the U.S. International Traffic in Arms Regulations, or (c) otherwise controlled by the U.S. government for national security or foreign policy purposes.

15.4 Independent Contractors

Salary and Customer agree that no joint venture, partnership, employment, or agency relationship exists between the parties. The parties are independent contractors with respect to each other.

15.5 Enforceability and Force Majeure

If any term of the Agreement is invalid or unenforceable, the other terms remain in effect. For purposes of this Agreement, "Force Majeure Event" means, with respect to a party, any event or circumstance, whether or not foreseeable, that was not caused by that party (other than a strike or other labor unrest that affects only that party, an increase in prices or other change in general economic conditions, a change in law, or an event or circumstance that results in that party's not having sufficient funds to comply with an obligation to pay money) and any consequences of that event or circumstance. If a Force Majeure Event prevents a party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute breach if (1) that party uses reasonable efforts to perform those obligations, (2) that party's inability to perform those obligations is not due to its failure to (a) take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or (b) develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as that Force Majeure Event, and (3) that party complies with its obligations under this Section 15.5. If a Force Majeure Event occurs, the noncomplying party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last. Thereafter the noncomplying party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume its performance under this Agreement.

15.6 No Third-Party Beneficiaries

Nothing in the Agreement, express or implied, is intended to or shall confer upon any third-party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

15.7 Money Damages Insufficient

Any breach by a party of the Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

15.8 No Additional Terms

Salary rejects additional or conflicting terms of any Customer form-purchasing document, purchase order, or similar document.

15.9 Severability. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

15.10 Loss of Funding. Performance by Customer under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Customer will issue written notice to Salary and Customer may terminate this Agreement without further duty or obligation hereunder. Salary acknowledges that appropriation of funds is beyond the control of Customer. In the event of a termination or cancellation under this Section, Customer will not be liable to Salary for any damages, that are caused or associated with such termination, or

cancellation.

15.11 Order of Precedence

If there is an inconsistency between this Agreement and an order, the applicable Order will prevail.

15.12 Survival of Terms

Any terms that by their nature survive termination or expiration of this Agreement or the applicable order, will survive (including without limitation, the Mutual Confidentiality, Product Specific Terms, and the Anonymized Data sections of the Agreement).

15.13 Provision of Services

Each order, along with this Agreement, is a contract for the provision of services, not for the sale of goods. The UN Convention on Contracts for the International Sale of Goods, the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), and any similar legislation now in effect or later enacted does not apply.

15.14 Feedback

If Customer provides feedback or suggestions about the Service, then Salary (and those it allows to use its technology) may use such information without obligation to Customer. Any such feedback is provided as-is, without warranties of any kind.

15.15 Authority

Each party represents and warrants to that it has all necessary power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms.

15.16 Access by Individuals with Disabilities

Salary represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to Customer under this Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*) (the "EIR Accessibility Warranty"). If Salary becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, Salary shall, at no cost to Customer, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Salary fails or is unable to do so, Customer may immediately terminate this Agreement, and Salary will refund to Customer all amounts paid by Customer under this Agreement within thirty (30) days following the effective date of termination.

15.17 State Auditor's Office Right to Audit. Salary understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Salary agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Salary will include this provision in all contracts with permitted subcontractors.

15.18 Cybersecurity Training Program. Pursuant to Section 2054.5192, *Texas Government Code*, Salary and its employees, officers, and subcontractors who have access to Customer's computer system and/or database must complete a cybersecurity training program certified under Section 2054.519, *Texas Government Code*, and selected by Customer. The cybersecurity training program must be completed by Salary and its employees, officers, and subcontractors during the term and any renewal period of this Agreement. Salary shall verify completion of the program in writing to Customer within the first thirty (30) calendar days of the term and any renewal period of this Agreement. Salary acknowledges and agrees that its failure to comply with the requirements of this Section are grounds for Customer to terminate this Agreement for cause in accordance with the provisions of Section 6.4 of this Agreement.

15.19 Certification as to Contracts with Companies Boycotting Israel

To the extent that Texas Government Code, Chapter 2271 applies to this Agreement, Salary certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this Agreement. Salary acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

15.20 Certification as to Business with Certain Countries and Organizations

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Salary certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Salary acknowledges this Agreement may be terminated if this certification is or becomes inaccurate.

15.21 Prohibition on Contracts Related to Persons Involved in Human Trafficking

Under Section 2155.0061, Government Code, Salary certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

15.22 Conflict of Interest

Salary and each person signing on behalf of Salary certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of Customer or Customer's Board of Regents, nor any employee or person whose salary is payable in whole or in part by Customer, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

15.23 Debts or Delinquencies

Pursuant to Section 2252.903, Texas Government Code, any payments owing to Salary under this Agreement may be applied directly toward certain debts or delinquencies that Salary owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

15.24 Delinquent Child Support Obligations

A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The Texas Family Code requires the following statement: "Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

15.25 Non-Waiver

Salary acknowledges Customer is an agency of the State of Texas and nothing in this Agreement waives or relinquishes Customer's right to claim any exemptions, privileges, or immunities as may be provided by law.

15.24 Public Information

- a) Salary acknowledges that Customer is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- b) Upon Customer's written request, Salary will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of Customer.
- c) Salary acknowledges that Customer may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.
- d) The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this agreement and the Salary agrees that the agreement can be terminated if the Salary knowingly or intentionally fails to comply with a requirement of that subchapter.

