

STATE OF TEXAS

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COUNTY OF FORT BEND

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**SECOND AMENDMENT TO GARTNER, INC. SERVICE AGREEMENT
FOR FORT BEND COUNTY
(DIR CONTRACT No. DIR-TSO-4099)**

THIS SECOND AMENDMENT ("Second Amendment") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Gartner, Inc., ("Gartner"), a company authorized to conduct business in the State of Texas (collectively referred to as the "parties").

WITNESSETH:

WHEREAS, the parties previously entered into the Gartner, Inc. Service Agreement for Fort Bend County for subscription-based research and related services on or about December 12, 2019, and as amended on or about March 23, 2021 (collectively the "Agreement"), attached hereto as Exhibit "I" and incorporated herein for all purposes. County and Gartner desire to amend said Agreement as set forth below:

I. Amendments

1. **Scope of Services.** Gartner shall continue to provide the following professional services, as referenced in the Agreement, to County from November 1, 2021 – October 31, 2022: Executive Programs Leadership Team Plus, as referenced in Gartner's Appendix D to DIR Contract No. DIR-TSO-4099, included within Exhibit I.
2. **Term.** This Agreement shall renew and is effective as of November 1, 2021 and shall expire no later than October 31, 2022, unless terminated sooner pursuant to this Agreement. This Agreement shall not automatically renew, but may renew upon written agreement of the parties.
3. **Limit of Appropriation.** Gartner's fees shall be calculated at the rates set forth in the attached Exhibit I. The Maximum Compensation for the performance of services within the Scope of Services as described in Exhibit I is \$177,408.00. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. Gartner clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of \$177,408.00, specifically allocated to fully discharge any and all liabilities County may incur. Gartner does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Gartner may become entitled to and the total maximum sum that County may become liable to pay to Gartner shall not under any conditions, circumstances, or interpretations thereof exceed \$177,408.00.
4. **Modifications.** Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
5. **Conflict.** If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.

6. **Understanding, Fair Construction.** By execution of this Second Amendment, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Second Amendment. This Second Amendment, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
7. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Second Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Second Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

GARTNER, INC.

DocuSigned by:

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KP George, County Judge

Authorized Agent – Signature

Ashley Beluch

Date

Authorized Agent- Printed Name

Senior Contracts Specialist

ATTEST:

Title

November 23, 2021

Laura Richard, County Clerk

Date

REVIWED:

Information Technology Department

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit I: Gartner, Inc. Service Agreement for Fort Bend County, executed on or about December 12, 2019, and as amended on or about March 23, 2021

EXHIBIT I

6. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, GARTNRT ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
7. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

KP George
County Judge KP George

KP George, County Judge

GARTNER, INC.

Phillip A. Cummings

Authorized Agent – Signature

3-23-2021

Date



ATTEST:

Anna Richard

County Clerk

Phillip A. Cummings

Authorized Agent- Printed Name

Contracts Counsel

Title

19 March 2021

Date

REVIEWED:

Robyn Doughtie

Information Technology Department

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 320,216.00 to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Ed Sturdivant

Robert Ed Sturdivant, County Auditor

Exhibit 1: Gartner, Inc. Service Agreement for Fort Bend County, executed on or about December 12, 2019; and

Exhibit 2: Gartner, Inc.'s updated Appendix D to DIR Contract No. DIR-TSO-4099

EXHIBIT 1

APPENDIX D to DIR Contract No. DIR-TSO-4099

Gartner, Inc. Services Agreement for [Fort Bend County] ("Customer")

This Service Agreement ("SA") and DIR Contract No. DIR-TSO-4099 constitutes the complete agreement between **Gartner, Inc.** of 56 Top Gallant Road, Stamford, CT 06904 ("**Gartner**") and Customer for the Services (as defined below). The SA is based upon and governed by the Contract for Services with the State of Texas Department of Information Services ("DIR") Contract No. DIR-TSO-4099, between Gartner and DIR, the terms of which are incorporated by reference for use by the Customer. The General Terms contained herein and all applicable Vendor Services Descriptions shall apply to this SA and shall be effective when signed by both parties. Customer agrees to subscribe to the following Services for the term and fees set forth below. All fees shall be as set forth in Appendix C of DIR Contract No. DIR-TSO-4099.

1. DEFINITIONS AND ORDER SCHEDULE

a. **Services** are the subscription-based research and related services purchased by Customer in the Order Schedule below and described in the Service Descriptions.

b. **Service Descriptions**, the terms of which are incorporated by reference, are attached to this SA and describe each Service purchased, specify the deliverables for each Service, and set forth any additional terms unique to a specific Service.

Service Names and Levels of Access are defined in the Service Descriptions. Gartner may periodically update the names and the deliverables for each Service. If Customer adds Services or upgrades the level of service or access, an additional Service Agreement will be required.

Summary of Services for **FORT BEND COUNTY**

Service Name	Level of Access	Quantity	Name of User to be Licensed	Contract Term Start Date	Contract Term End Date	Annual Fee USD	Total Fee USD
Executive Programs Leadership Team Plus	Leader	1	Robyn Doughtie	01-NOV-2019	31-OCT-2020		
Executive Programs Leadership Team Plus	Cross Function Member	2	Jahan Tolliver, Vidya Menon	01-NOV-2019	31-OCT-2020		
				Term Total	(Excluding applicable taxes)		\$144,182.00
				Estimated Credit	(Excluding applicable taxes)		(\$61,062.67)
				TOTAL	(Excluding applicable taxes)		\$83,119.33
Executive Programs Leadership Team Plus	Leader	1	Robyn Doughtie	01-NOV-2020	31-OCT-2021		
Executive Programs Leadership Team Plus	Cross Function Member	2	Jahan Tolliver, Vidya Menon	01-NOV-2020	31-OCT-2021		
Executive Programs Leadership Team Plus	Cross Function Member	1	TBD	01-NOV-2020	31-OCT-2021		
				Term Total	(Excluding applicable taxes)		\$176,134.00
				TOTAL	(Excluding applicable taxes)		\$176,134.00

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Gartner, Inc. - Service Agreement with General Terms - Version 110308 - Page 1 of 3

The standard configuration for the Executive Programs Leadership Team Plus solution includes three (3) Team Members in addition to the Team Leader. The non-standard configuration provided above is limited to terms of this agreement only.

Due to the multi year term of this Service Agreement, Client expressly waives its right of termination for convenience.

REPLACEMENT OF SERVICES. Upon execution by both parties, this SA shall cancel the previous Service Agreement or Letter of Agreement dated 01-JUL-2019, between Client and Gartner or any wholly-owned affiliate of Gartner, Inc. (the "Contract"). Client will receive a credit, which represents the portion of the fee paid by Client applicable to the remaining, unfulfilled Term of the Contract. This credit will be applied to the invoice for this Service Agreement between Client and Gartner, and is subject to confirmation of the payment previously made to Gartner or any wholly-owned affiliate of Gartner, Inc.

<u>Service Name/ Level of Access</u>	<u>Service Description URL</u>
Executive Programs Leadership Team Plus Leader	http://sd.gartner.com/sd_ep_team_plus_leader.pdf
Executive Programs Leadership Team Plus Cross Function Member	http://sd.gartner.com/sd_ep_team_plus_cf.pdf

2. PAYMENT TERMS

Gartner will invoice Customer in advance for all Services. Payment shall be in accordance with Section 7 of Appendix A of the DIR Contract DIR-TSO-4099.

Please attach any required Purchase Order ("PO") to this SA and enter the PO number below. If an annual PO is required for multi-year contracts, Customer will issue the new PO at least 30 days prior to the beginning of each subsequent contract year. Any pre-printed or additional contract terms included on the PO shall be inapplicable and of no force or effect.

General Terms and Guidelines for Vendor's Services

1. This SA for subscription-based research and related services (the "Services") is subject to Section 8.B. of Appendix A of the DIR Contract No. DIR-TSO-4099.
2. **Services** are the subscription-based research and related services described herein. Service Descriptions, Names and Levels of Access are as detailed for each product offering. Vendor may periodically update the names and the deliverables for each Service.
3. **Modification of Services by Vendor.** In order to remain current and timely in its Service offerings, Vendor may make minor modifications from time to time in the content of any Service. If Vendor discontinues any Service in its entirety, Customer may, at its option, receive a substitute Service, or obtain a pro rata refund of the fees paid for the discontinued Service.
4. **Licensed User** is the individual named in the Customer Purchase Order who is licensed to use the Services. Customer will limit access to the Services to the agreed upon number of Licensed Users.
5. **Ownership and Use of the Services.** Vendor owns and retains all rights to the Services not expressly granted to Customer. Only the individuals named in the Customer Purchase Order (each a "Licensed User") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Customer agrees to review and comply with the **Usage Guidelines for Gartner Services** ("Guidelines"), which are accessible to all Licensed Users via the "Policies" section of www.gartner.com. Among other things, these Guidelines describe how Customer may substitute Licensed Users, excerpt from and/or share Vendor research documents within the Customer organization, and quote or excerpt from the Services externally. Customer may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users without Vendor's prior written permission. Licensed Users may not reproduce or distribute the Services externally without Vendor's prior written permission, except for external distribution, in their entirety only, of reprints of individual documents purchased by Customer.

Customer may excerpt from the Services for external use only if Customer obtains the prior written approval of Gartner Quote Requests, at quote.requests@gartner.com. Any approved external use of the Services must comply with Vendor's **Copyright and Quote Policy** which may be viewed on the Gartner Vendor Relations section of www.gartner.com. Services may not be stored by Customer on any information storage and retrieval system.
6. **Access to the Services.** ID's for access to Vendor Core Research and Analyst Inquiry may not be shared. Access to the Services is restricted to the number of named individuals (each a "Licensed User") as identified in the Customer Purchase Order.
7. **Monitoring of Usage.** Customer acknowledges and agrees to inform all Licensed Users that Vendor may monitor activity on Vendor's web site, including access to, and use of, the Services by individuals. Upon request, Customer agrees to provide Vendor with assurance from a responsible party (or other relevant evidence) of compliance with these usage terms.
8. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND VENDOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. CUSTOMER RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. VENDOR SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CUSTOMER MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CUSTOMER UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.
9. **Applicable Law.** This SA shall be governed by and construed in accordance with the procedural and substantive laws of the State of Texas, without reference to its conflict of law principles, venue for disputes shall be Travis County, Texas.
10. **Customer Confidential Information.** To the extent allowable under the Texas Public Information Act, Vendor agrees to keep confidential any Customer-specific information communicated by Customer to Vendor that is (i) clearly marked confidential if provided in written form, or (ii) preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 15 days of its initial disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by Vendor; (3) entered the public domain through no fault of Vendor subsequent to Customer's communication to Vendor; (4) is in Vendor's possession free of any obligation of confidence at the time of Customer's communication to Vendor; or (5) is communicated by the Customer to a third party free of any obligation of confidence. Additionally, Vendor may disclose such information to the extent required by legal process. Customer acknowledges that Vendor is in the business of researching and analyzing information technology and this obligation of confidence shall not apply to information obtained by Vendor's research, analysis or consulting organization(s) from other sources.

EXHIBIT 2

APPENDIX D to DIR Contract No. DIR-TSO-4099

Gartner, Inc. Services Agreement for [FORT BEND COUNTY] (“Customer”)

This Service Agreement (“SA”) and DIR Contract No. DIR-TSO-4099 constitutes the complete agreement between **Gartner, Inc.** of 56 Top Gallant Road, Stamford, CT 06904 (“**Gartner**”) and Customer for the Services (as defined below). The SA is based upon and governed by the Contract for Services with the State of Texas Department of Information Services (“DIR”) Contract No. DIR-TSO-4099, between Gartner and DIR, the terms of which are incorporated by reference for use by the Customer. The General Terms contained herein and all applicable Vendor Services Descriptions shall apply to this SA and shall be effective when signed by both parties. Customer agrees to subscribe to the following Services for the term and fees set forth below. All fees shall be as set forth in Appendix C of DIR Contract No. DIR-TSO-4099.

1. DEFINITIONS AND ORDER SCHEDULE

a. Services are the subscription-based research and related services purchased by Customer in the Order Schedule below and described in the Service Descriptions.

b. Service Descriptions, the terms of which are incorporated by reference, are attached to this SA and describe each Service purchased, specify the deliverables for each Service, and set forth any additional terms unique to a specific Service.

Service Names and Levels of Access are defined in the Service Descriptions. Gartner may periodically update the names and the deliverables for each Service. If Customer adds Services or upgrades the level of service or access, an additional Service Agreement will be required.

Summary of Services for FORT BEND COUNTY

<u>Service Name</u>	<u>Level of Access</u>	<u>Quantity</u>	<u>Name of User to be Licensed</u>	<u>Contract Term Start Date</u>	<u>Contract Term End Date</u>	<u>Annual Fee USD</u>	<u>Total Fee USD</u>
Executive Programs Leadership Team Plus	Leader	1	Robyn Doughtie	01-NOV-2020	31-OCT-2021		
Executive Programs Leadership Team Plus	Cross Function Member	2	Jahan Tolliver, Puja Mishra	01-NOV-2020	31-OCT-2021		
				Term Total	(Excluding applicable taxes)		\$144,082.00
Executive Programs Leadership Team Plus	Leader	1	Robyn Doughtie	01-NOV-2021	31-OCT-2022		
Executive Programs Leadership Team Plus	Cross Function Member	2	Jahan Tolliver, Puja Mishra	01-NOV-2021	31-OCT-2022		
Executive Programs Leadership Team Plus	Cross Function Member	1	TBD	01-NOV-2021	31-OCT-2022		
				Term Total	(Excluding applicable taxes)		\$177,408.00

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The standard configuration for the Gartner for Executive Programs Leadership Team Plus solution includes three (3) Team Members in addition to the Team Leader. The non-standard configuration provided above is limited to terms of this agreement only.

Due to the multi-year term of this Service Agreement, Client expressly waives its right of termination for convenience.

Client understands that the promotional pricing stated in this Service Agreement is solely applicable for the services included in this agreement and only for the contract term herein. Client understands any subsequent renewal, shall be at the then current Texas DIR license price.

REPLACEMENT OF SERVICES. Upon execution by both parties, this SA shall cancel the previous Service Agreement or Letter of Agreement dated 01-NOV-2019, between Client and Gartner or any wholly-owned affiliate of Gartner, Inc. (the "Contract"). Client will receive a credit, which represents the portion of the fee paid by Client applicable to the remaining, unfulfilled Term of the Contract. This credit will be applied to the invoice for this Service Agreement between Client and Gartner, and is subject to confirmation of the payment previously made to Gartner or any wholly-owned affiliate of Gartner, Inc.

<u>Service Name/ Level of Access</u>	<u>Service Description URL</u>
Executive Programs Leadership Team Plus Leader	http://sd.gartner.com/sd_ep_team_plus_leader.pdf
Executive Programs Leadership Team Plus Cross Function Member	http://sd.gartner.com/sd_ep_team_plus_cf.pdf

2. PAYMENT TERMS

Gartner will invoice Customer in advance for all Services. Payment shall be in accordance with Section 7 of Appendix A of the DIR Contract DIR-TSO-4099.

Please attach any required Purchase Order ("PO") to this SA and enter the PO number below. If an annual PO is required for multi-year contracts, Customer will issue the new PO at least 30 days prior to the beginning of each subsequent contract year. Any pre-printed or additional contract terms included on the PO shall be inapplicable and of no force or effect.

3. CUSTOMER BILLING INFORMATION

Purchase Order Number

Billing Address

Invoice Recipient Name

Invoice Recipient Email

Invoice Recipient Tel. No.

4. AUTHORIZATION
State of Texas Customer:

Gartner, Inc.

Signature/Date

Signature/Date

Print Name and Title

Print Name and Title

General Terms and Guidelines for Vendor's Services

1. This SA for subscription-based research and related services (the "**Services**") is subject to Section 8.B. of Appendix A of the DIR Contract No. DIR-TSO-4099.
2. **Services** are the subscription-based research and related services described herein. Service Descriptions, Names and Levels of Access are as detailed for each product offering. Vendor may periodically update the names and the deliverables for each Service.
3. **Modification of Services by Vendor.** In order to remain current and timely in its Service offerings, Vendor may make minor modifications from time to time in the content of any Service. If Vendor discontinues any Service in its entirety, Customer may, at its option, receive a substitute Service, or obtain a pro rata refund of the fees paid for the discontinued Service.
4. **Licensed User** is the individual named in the Customer Purchase Order who is licensed to use the Services. Customer will limit access to the Services to the agreed upon number of Licensed Users.
5. **Ownership and Use of the Services.** Vendor owns and retains all rights to the Services not expressly granted to Customer. Only the individuals named in the Customer Purchase Order (each a "**Licensed User**") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Customer agrees to review and comply with the **Usage Guidelines for Gartner Services** ("**Guidelines**"), which are accessible to all Licensed Users via the "Policies" section of www.gartner.com. Among other things, these Guidelines describe how Customer may substitute Licensed Users, excerpt from and/or share Vendor research documents within the Customer organization, and quote or excerpt from the Services externally. Customer may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users without Vendor's prior written permission. Licensed Users may not reproduce or distribute the Services externally without Vendor's prior written permission, except for external distribution, in their entirety only, of reprints of individual documents purchased by Customer.

Customer may excerpt from the Services for external use only if Customer obtains the prior written approval of Gartner Quote Requests, at quote.requests@gartner.com. Any approved external use of the Services must comply with Vendor's *Copyright and Quote Policy* which may be viewed on the Gartner Vendor Relations section of www.gartner.com. Services may not be stored by Customer on any information storage and retrieval system.

6. **Access to the Services.** ID's for access to Vendor Core Research and Analyst Inquiry may not be shared. Access to the Services is restricted to the number of named individuals (each a "Licensed User") as identified in the Customer Purchase Order.
7. **Monitoring of Usage.** Customer acknowledges and agrees to inform all Licensed Users that Vendor may monitor activity on Vendor's web site, including access to, and use of, the Services by individuals. Upon request, Customer agrees to provide Vendor with assurance from a responsible party (or other relevant evidence) of compliance with these usage terms.
8. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND VENDOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. CUSTOMER RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. VENDOR SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CUSTOMER MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CUSTOMER UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.
9. **Applicable Law.** This SA shall be governed by and construed in accordance with the procedural and substantive laws of the State of Texas, without reference to its conflict of law principles, venue for disputes shall be Travis County, Texas.
10. **Customer Confidential Information.** To the extent allowable under the Texas Public Information Act, Vendor agrees to keep confidential any Customer-specific information communicated by Customer to Vendor that is (i) clearly marked confidential if provided in written form, or (ii) preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 15 days of its initial disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by Vendor; (3) entered the public domain through no fault of Vendor subsequent to Customer's communication to Vendor; (4) is in Vendor's possession free of any obligation of confidence at the time of Customer's communication to Vendor; or (5) is communicated by the Customer to a third party free of any obligation of confidence. Additionally, Vendor may disclose such information to the extent required by legal process. Customer acknowledges that Vendor is in the business of researching and analyzing information technology and this obligation of confidence shall not apply to information obtained by Vendor's research, analysis or consulting organization(s) from other sources.