

Master Client Agreement – Gartner, Inc.

This **MASTER CLIENT AGREEMENT** (the “**MCA**”) for subscription-based research and related services is between **Gartner, Inc.** of 56 Top Gallant Road, Stamford, CT 06904 (“**Gartner**”) and Snohomish County, a political subdivision of the state of Washington (“**Client**” or “**County**”) pursuant to RFP 21-001SB, and sets forth the general terms applicable to the use of Gartner products and services (the “**Services**”) provided to Client, or to any majority-owned affiliate of Client.

1. **Service Agreements.** Service Agreements set forth the Service(s) to be provided by Gartner (as more fully described in one or more “**Service Descriptions**”), the term of Client’s license for such Services, and the fees payable by Client. Service Agreements may be in accordance with this MCA. In the event of an inconsistency between any provision of this MCA and a provision of a Service Agreement, the Service Agreement shall control during its term.

2. **Ownership and Use of the Services.** Gartner owns and retains all rights to the Services not expressly granted to Client. Only the individuals named in the Service Agreement (each a “**Licensed User**”) may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Client agrees to review and comply with the *Gartner Usage Policy*, which is accessible to all Licensed Users via the “Policies” section of gartner.com. Among other things, the *Gartner Usage Policy* describes how Client may substitute Licensed Users, excerpt from and/or share Gartner research documents within the Client organization, and quote or excerpt from the Services externally.

3. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS, AND GARTNER 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. CLIENT 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. GARTNER SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CLIENT MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CLIENT UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.

4. **Client Confidential Information.** Gartner agrees to keep confidential any Client-specific information communicated by Client to Gartner in connection with this MCA 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 Gartner; (3) entered the public domain through no fault of Gartner subsequent to Client's communication to Gartner; (4) is in Gartner's possession free of any obligation of confidence at the time of Client's communication to Gartner; or (5) is communicated by the Client to a third party free of any obligation of confidence. Additionally, Gartner may disclose such information to the extent required by legal process.

5. **Data Protection.** In performing its obligations under this MCA, Gartner and Client will each comply with all applicable data privacy legislation. Without limitation to this, Client shall ensure that any disclosure of personal data, whether in relation to Client's employees or otherwise, made to Gartner by Client or on its behalf is made with the data subject's consent or is otherwise lawful. In so far as any disclosure relates to Client's own employee or subcontractor, Client shall notify that employee or subcontractor that Gartner and its affiliates may: (a) use the personal data to provide Client with the Services, (b) disclose the personal data to third parties to provide the Services; and (c) inform Client about other products or services that Gartner believes may be of interest. If any person does not wish to receive such Gartner communications, they may contact Gartner at privacy@gartner.com.

6. **County Standard Terms and Conditions.**

- A. **Direction and Control.** Gartner agrees that Gartner will perform the Services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. The parties agree that Gartner is not entitled to any benefits or rights enjoyed by employees of the County. Gartner specifically has the right to direct and control Gartner's own activities in providing the agreed Services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint ventures.
- B. **Confidentiality.** Gartner shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with Gartner's performance under this Agreement as provided for in Section 4. Gartner may use such information solely for the purposes necessary to perform its obligations under this Agreement. Gartner shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information
- C. **Changes.** No changes or additions shall be made in this Agreement except as agreed to by both parties and reduced to writing and executed with the same formalities as are required for the execution of this Agreement.
- D. **Subcontracting and Assignment.** Gartner shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County.
- E. **Hold Harmless.**
- 1) Each party shall assume the risk of, be liable for, and pay all damage, loss, cost and expense of any party, including any of its employees, arising out of its performance of this Agreement, except that caused by negligence and/or willful misconduct solely of the other party and/ or its employees acting within the scope of their employment. Gartner shall hold harmless from and indemnify Snohomish County against all third-party claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property or business and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly by reason of or in connection with any negligent act, willful misconduct, error or omission of Gartner, Gartner's employees, agents or subcontractors, whether by negligence or otherwise.
 - 2) With respect to Gartner's obligations to hold harmless, indemnify and defend provided for herein, but only as such obligations relate to claims, actions or suits filed against the County, Gartner further agrees to waive its immunity under the Industrial Insurance Act, Title 51 RCW, for any injury or death suffered by Gartner's employees caused by or arising out of Gartner's acts, errors or omissions in the performance of this Agreement. This waiver is mutually negotiated by the parties.
 - 3) Gartner's obligation shall include, but not be limited to investigating, adjusting, and defending all claims alleging loss from action, error or omission or breach of any common law, statutory or other delegated duty by Gartner, Gartner's employees, agents, or subcontractors.
 - 4) Neither party shall be liable for any consequential, indirect, special or incidental damages, such as damages for lost profits, business failure or loss arising out of use of the Services, whether or not advised of the possibility of such damages. Except for liability for personal injury or death or for damage to property caused by the negligence or willful misconduct of Gartner or its employees, Gartner's total liability arising out of this Agreement and the provision of the Services shall be limited to the fees paid by the County under the specific Statement of Work under which such liability arises.
- F. **Compliance with Laws.** Gartner shall comply with all applicable federal, state and local laws, rules, and regulations in performing this Agreement.

G. **Authority.** Each signatory to this MCA represents that he or she has full and sufficient authority to execute this MCA on behalf of the County or Gartner, as the case may be, and that upon execution of this MCA it shall constitute a binding obligation of the County or Gartner, as the case may be.

H. **Termination.**

1) If Gartner breaches any of its obligations hereunder, and fails to cure the same within thirty (30) days of written notice to do so by the County, the County may terminate this MCA and any associated Service Agreement, in which case the County shall pay Gartner only for the services and corresponding reimbursable expenses, if any, accepted by the County. If the County breaches any of its obligations hereunder, and fails to cure the same within thirty (30) days of written notice to do so, Gartner may terminate this MCA and any associated Service Agreement.

2) Termination for Non-Appropriation If expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth in this MCA or subsequent Service Agreement or in any amendment hereto, the County may, upon written notice to the Supplier, terminate this MCA and any associated Service Agreement in whole or in part. Funding under this MCA and any associated Service Agreement beyond the current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the activities described in this MCA and associated Service Agreement. Should such an appropriation not be approved, the MCA and any associated Service Agreement shall terminate at the close of the current appropriation year. The appropriation year ends on December 31 of each year.

I. **Governing Law and Venue.** The MCA shall be governed by the laws of the State of Washington and any lawsuit regarding this MCA must be brought in Snohomish County, Washington.

J. **Severability.** Should any clause, phrase, sentence or paragraph of this MCA be declared invalid or void, the remaining provisions of the MCA shall remain in full force and effect.

K. **County Non-discrimination**

By executing this MCA and any associated Service Agreement, Gartner certifies that it shall comply with the "Non-discrimination Clause" provided below:

It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 Snohomish County Code (SCC). These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

Gartner shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this MCA constitutes a certification by Gartner of Gartner's compliance with the requirements of Chapter 2.460 SCC. If Gartner is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this MCA or Chapter 2.460 SCC, this MCA may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect Gartner's obligations under federal, state, or local laws against discrimination.

L. **Public Records Act**

This MCA and all public records associated with this MCA shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of Gartner are needed for the County to respond to a request under the Act, as determined by the County, Gartner agrees to make them

promptly available to the County. If Gartner considers any portion of any record provided to the County under this MCA, whether in electronic or hard copy form, to be protected from disclosure under law, Gartner shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by Gartner and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify Gartner (a) of the request and (b) of the date that such information will be released to the requester unless Gartner obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If Gartner fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of Gartner to claim any exemption from disclosure under the Act. The County shall not be liable to Gartner for releasing records not clearly identified by Gartner as confidential or proprietary. The County shall not be liable to Gartner for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

7. **Miscellaneous**

(a) **Use of Name, Trademark, and Logo.** Absent the prior written consent of the other party, neither party shall use the name, trademarks, or logo of the other in promotional materials, publicity releases, advertising, or any other similar publications or communications.

(b) **No Third Party Beneficiaries.** This MCA is for the benefit of the parties only.

(c) **Surviving Clauses.** Sections 3, 4, 5 and 6 (b), (c), (d), (e), (f), and (g) shall survive the termination of this MCA.

(d) **Entire Agreement.** This MCA, together with any Service Agreements, sets forth the entire agreement between the parties with respect to the subject matter hereof. This MCA supersedes any previous agreements between the parties and may be signed in counterparts. No modifications may be made except in writing signed by both parties.

GARTNER, INC.

SNOHOMISH COUNTY

Authorized Signature:

Authorized Signature:


Ken Klein, Executive Director

Ken Klein
2021.07.29
08:15:48 -07'00'

Date: _____

Date: _____

IF USING A DIGITAL SIGNATURE, PLEASE CONFIRM THE FOLLOWING AS A CONDITION OF CONTRACT EXECUTION:

By ticking this box, I agree that by affixing my digital signature hereunder I am attesting that: (i) this is my own personal legal signature; and (ii) I am a duly authorized signatory for my company. My signature verifies that the information provided to Gartner hereunder is subscribed by me, under penalty of false statement and material breach of contract.

Please return a signed original of this MCA to:
Contracts Administration Department
Gartner, Inc.
12651 Gateway Blvd
Fort Myers, FL 33913

Telephone: 239-561-4000
Facsimile: 866-225-4277

Printed Name and Title: _____

Address: _____

Telephone: _____

Facsimile: _____

