



MASTER SUBSCRIPTION AGREEMENT

This Agreement is entered into between Payscale, Inc. and its Affiliates ("**Payscale**") and <insert legal name of Customer> ("**Customer**") and is effective as of the date last signed by a party ("**Effective Date**"). This Agreement governs Customer's use and purchase of Payscale Services. The term "Customer" includes Customer's Affiliates to the extent Affiliates are listed on the applicable Order Form.

1. DEFINITIONS

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. For purposes of this definition, "**control**" means direct or indirect ownership or control of more than 50% of the outstanding voting interests of the subject entity.

"**Agreement**" means this Master Subscription Agreement, any amendments, and applicable Order Forms.

"**Annual Subscription Fee**" means the annual fee applicable to Customer's subscription to a Payscale Service for a given Service Year, excluding any one-time fees (e.g., implementation fees), and any Taxes (defined in Section 7.3 below).

"**Beta Service**" means a product, service, data, integration, or other feature that Payscale may make available to Customer, and is marked as beta, limited release, preview, non-production, or other similar description within the Payscale Services. Customer shall not be required to use any Beta Service.

"**Customer Data**" means information provided by Customer or its Users to load or input into the Payscale Services. Customer Data is Customer's Confidential Information. Customer Data does not include Third Party Data or Payscale Data.

"**Order Form**" means the ordering document that identifies the Payscale Services purchased by Customer and associated fees.

"**Payscale Data**" means data owned by Payscale, including Usage Data, Aggregated Data, Payscale Data Services, and any other data that is provided by Payscale (or its licensors) to Customer. Payscale Data is Payscale's Confidential Information. Payscale Data does not include Customer Data.

"**Payscale Data Services**" means the Payscale Services that provide Payscale Data and/or Third Party Data to Customer.

"**Payscale Integration**" means any application programming interface ("**API**") or other integration feature between a Payscale Service and a Third Party Service, provided by Payscale to Customer.

"**Payscale Services**" means the proprietary products and services of Payscale (including Payscale Data Services, Payscale Data, and Professional Services) or its licensors, and any Third Party Services, as identified on an Order Form and described in the Documentation, and subsequently made available to Customer in accordance with this Agreement.

"**Professional Services**" means consulting services related to the Payscale Services as identified on an Order Form.

"**Service Year**" means a 12-month period beginning on the start date of the Subscription Term.

"**Subscription Term**" means the duration of Customer's subscription to a Payscale Service as set forth on an Order Form and all Renewal Subscription Terms (defined in Section 6.1 below).

"**Term**" means the duration this Agreement is in effect as described in Section 6.1 below.

“Third Party Data” means any data, including compensation surveys, provided by a Third Party Service that is loaded, stored, displayed, or processed by a Payscale Service and accessible through Customer’s Account (defined below).

“Third Party Service” means applications, services, software, or other product supplied by a third party.

“User” means Customer’s employees and vendors that are authorized by Customer to use and access the Payscale Services through Customer’s Account.

2. PROVISION AND USE OF PAYSACLE SERVICES

2.1 Subscription to Payscale Services. During the Subscription Term, and subject to the terms and conditions of this Agreement, Customer and its Users may access and use the Payscale Services, as modified, enhanced, or updated from time to time, through a web browser using an account provided by Payscale to Customer (**“Account”**). Customer may not exceed the scope of Customer’s subscription as specified on an Order Form or in the Documentation; exceeding the subscription scope may result in additional fees. Payscale reserves the right to migrate Customer to a substantially equivalent or improved Payscale Service at any time during a Term at its discretion, at no additional cost to Customer and upon at least six months advance notice.

2.2 Account Access. Customer will designate individuals authorized by Customer to manage, use, and support the Account, and will control creation and assignment of usernames and passwords to Users. Customer is responsible for maintaining its Users and the confidentiality of all usernames, passwords, and other Account access information. Customer will notify Payscale promptly if it becomes aware that: (a) the Account has been compromised, including any unauthorized access, use, or disclosure of data; or (b) any other breach of security in relation to its passwords, usernames, or other Account access information has occurred. Customer remains responsible for compliance by its Users with all the terms and conditions of this Agreement, and any use of the Payscale Services by Users shall be solely for the benefit of Customer.

2.3 Use Restrictions. Except as expressly allowed under this Agreement, Customer will not: (a) permit any third party (other than Users) to access or use the Payscale Services; (b) create derivative works based on the Payscale Services; (c) copy, frame, or mirror any part or content of the Payscale Services, other than copying or framing on Customer’s own intranet for Customer’s internal business purposes; (d) trace, decompile, disassemble, translate, reverse engineer, or otherwise attempt to derive source code or data from the Payscale Services, in whole or in part, or encourage or permit others to do so (except to the extent that applicable law prohibits or restricts reverse engineering restrictions); (e) sell, resell, rent, or lease the Payscale Services; (f) use the Payscale Services to store or transmit infringing, libelous, or other unlawful or tortious material, or to store or transmit material in violation of privacy rights; (g) store or transmit virus, malware, or other malicious or harmful code or files through the Payscale Services; (h) interfere with or disrupt the integrity or performance of the Payscale Services; (i) attempt to gain unauthorized access to Payscale Services or their related systems or networks; (j) perform any performance testing of the Payscale Services without Payscale’s prior written consent; (k) access or use the Payscale Services outside of the Subscription Term; or (l) access or use the Payscale Services to (i) develop or improve a competitive product or service, (ii) on behalf of or to provide services to any third party; or (iii) copy any features, functions, content, format, graphics, modules, algorithms, arrangement, method of organization, method of interaction, or other design of the Payscale Services.

2.4 Provision of Professional Services. To the extent Customer is purchasing Professional Services, any applicable limits to the service hours available to Customer during each Service Year are set forth in the Documentation or the Order Form (**“Service Hour Limit”**). If Customer exceeds the Service Hour Limit during a Service Year, Customer shall pay the rate outlined in the Order Form for any excess Service Hours, or Payscale’s standard rates if no rate is identified. Service Hours must be used during the Service Year set out in the Order Form and do not carry over to subsequent Service Years or Renewal Subscription Term(s).

2.5 Documentation. Payscale Services are subject to the operational terms set forth in the technical specifications and requirements located at <https://www.payscale.com/about/documentation/> (**“Documentation”**). Documentation does not include white papers, community forums, training videos or similar resources. Documentation includes terms related to Third Party Services contracted through Payscale. Documentation may be updated by Payscale from time to time in its sole discretion to include additional Payscale Services, new features, or to reflect updated operational processes, but any such changes will not impose additional liabilities on Customer or materially reduce the functionality of a Payscale Service.

2.6 Beta Services. Beta Services may be subject to additional terms, to be provided at the time of participation. Unless otherwise agreed by the parties, use of Beta Services expire on the date a version of the Beta Services becomes generally available without the Beta Service designation. Payscale may discontinue Beta Services at any time in its sole discretion and may never make them generally available. Beta Services are provided “AS IS” and may not meet all terms outlined in the SLA (referenced in Section 3.1 below), provided that Customer’s use of Beta Services shall not excuse Payscale’s obligations under this Agreement regarding Confidentiality and Customer Data.

3. RESPONSIBILITIES OF EACH PARTY

3.1 Payscale Responsibilities. During the Subscription Term, Payscale will: (a) provide Customer support for the Payscale Services as set forth in the Service Levels Addendum (“**SLA**”) available at <https://www.payscale.com/content/legal/sla.pdf> and Payscale shall not materially reduce such support during the Subscription Term; (b) maintain insurance coverage as set forth in the Insurance Addendum available at <https://payscale.com/content/legal/ia.pdf> and Payscale shall not materially reduce such insurance coverage during the Subscription Term; and (c) be responsible for the performance of its employees and contractors and their compliance with Payscale’s obligations under this Agreement.

3.2 Customer Responsibilities. Customer will: (a) be responsible for Users’ compliance with this Agreement; (b) be responsible for procuring at its expense the equipment and services needed to access the Payscale Services; (c) be solely responsible for the accuracy and legality of Customer Data (including collecting any required privacy consents from its employees); (d) ensure that the billing information Customer provides to Payscale is accurate, current, and complete, (e) use reasonable efforts to prevent unauthorized access to, or use of, the Payscale Services through Customer’s Account; (f) provide assistance, information, data, and other resources reasonably necessary to enable Payscale to provide the Payscale Services; and (g) use the Payscale Services in accordance with applicable Documentation, this Agreement, and applicable laws. Customer’s failure to meet these requirements may impact Customer’s ability to use the Payscale Services, including, but not limited to, suspension of access.

4. DATA RIGHTS AND USAGE

4.1 Customer Data. As between Payscale and Customer, Customer exclusively owns all rights, title, and interest in and to all Customer Data, except where specific rights are expressly granted to Payscale. During the Term and subject to this Agreement, Customer grants to Payscale a license and right to host, access, process, display, copy, transmit, modify, create derivative works of, and otherwise use Customer Data solely to the extent necessary to: (a) fulfill its obligations to Customer under this Agreement, including to maintain, evaluate, and secure the Payscale Services; (b) develop or improve the Payscale Services (including as outlined in Section 4.4 below); and (c) research and report on compensation trends, so long as all such usage is (i) deidentified so that it does not identify Customer, its Users or any other person and (ii) aggregated with data across other customers. Customer shall not provide to Payscale sensitive data that is not necessary for Payscale to perform its obligations under this Agreement, such as social security numbers or other government identifiers, credit card numbers, bank account numbers, other financial information, or health information.

4.2 Payscale Data. As between Payscale and Customer, Payscale exclusively owns all rights, title, and interest in and to all Payscale Data, except where specific rights are expressly granted to Customer. Payscale may use Payscale Data for any purpose in its sole discretion.

4.3 Usage Data. Customer agrees that Payscale may collect data and other information related to Customer’s use of a Payscale Service (e.g., number of reports run, frequency of log-ins, and searches made by Customer) (“**Usage Data**”). Usage Data shall not include customer compensation data. Payscale will not disclose Usage Data externally unless deidentified so that it does not identify Customer, its Users or any other person and so long as it is aggregated with data across other customers, or as expressly provided in this Agreement (i.e., in response to a regulatory request).

4.4 Payscale Data Services.

(a) **Aggregated Data.** Customer agrees that Payscale may use Customer Data stored in the Payscale Services (e.g., compensation ranges and job titles) to produce an aggregated data source (“**Aggregated Data**”).

Customer Data is aggregated, deidentified and validated before being included in Aggregated Data. Aggregated Data does not include personal information. Aggregated Data may be used in multiple Payscale Data Services, combined with other data including Third Party Data, and segmented into specific data cuts (e.g., by number of employees, geographic location). Payscale will impose technical and contractual limitations, as required by applicable law, to prevent Customer Data from being individually identified or reverse engineered.

(b) Participation. Payscale Data Services that include Aggregated Data rely on the accuracy of the data contributed by Payscale customers. Customer agrees to regularly update and maintain the accuracy of Customer Data as provided in this Agreement and the Documentation. Customer agrees to reasonably cooperate with Payscale to answer questions and to correct any identified problems, omissions, or errors. Customer agrees that, notwithstanding anything to the contrary in this Agreement, its name may be listed as a participant and available to others as a part of the Payscale Data Services; this includes being selectable when creating a data cut for Payscale Data Services that offer such functionality. Customer must contribute Customer Data to the Aggregated Data or pay a non-participation rate in order to receive a Payscale Data Service containing Aggregated Data. Customer will have access only to the Payscale Data Services listed on the applicable Order Form.

(c) Opt-Out. Customer may opt-out of contributing to Aggregated Data at any time by providing Payscale at least 45 days' prior written notice, at which point Customer's data and name will be removed at the next version release or update of the Payscale Data Services. If choosing to opt-out during the Term, Customer shall no longer have access to Payscale Data Services (except where Customer and Payscale agree to a non-participation rate) and shall remain obligated to pay the fees committed to in the Order Form. Notwithstanding the foregoing, Customer understands that Aggregated Data provided before Customer's opt-out will remain a part of the versions of the Payscale Data Services previously released and Customer's name will remain included as a participant for such versions.

4.5 Reservation of Rights. Payscale retains all right, title, and interest in and to the Payscale Services (and any modifications or derivative works), including all underlying software, source code, data (other than Customer Data), design, modules, organization, format, algorithm, and other technology, and all logos and trademarks (excluding Customer logos and trademarks) reproduced through the Payscale Services. This Agreement does not grant Customer any intellectual property rights in the Payscale Services or any of its components (including Payscale Data).

4.6 Feedback. Customer may submit suggestions, enhancements, requests, corrections, or other feedback related to the Payscale Services but shall not include Customer Data ("**Feedback**"). Customer agrees that all Feedback is given voluntarily, and subject to Section 13.4 (Publicity) below, Payscale may use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Customer. Feedback will not be considered Customer's Confidential Information or its trade secret.

5. Third Party Services.

5.1 Third Party Services. In the event Customer has contracted directly with a Third Party Service and requests Payscale include Third Party Data as a part of the Payscale Services, Customer hereby grants to Payscale the right to use, load, host, copy, access, store, display, or otherwise process the Third Party Data solely to provide Customer the Payscale Services. Customer represents and warrants that it has secured all necessary rights to authorize this usage by Payscale. Further, Customer consents to Payscale contacting the applicable Third Party Service to verify Customer's purchase and agrees to provide a proof of purchase as may be reasonably requested by Payscale. In the event a Third Party Service reasonably disputes Customer's right to Third Party Data, Payscale may remove such Third Party Data from the Customer's Account. Third Party Data is not owned or controlled by Payscale, and Payscale does not provide any warranties with respect to Third Party Data. Payscale does not guarantee the ability to support all Third Party Data.

5.2 Payscale Integrations. Payscale may enable or make available Payscale Integrations on a non-exclusive basis to allow Customer to integrate a Payscale Service with a Third Party Service. Customer understands and agrees that the development, maintenance, use, and performance of a Payscale Integration are dependent on the compatibility, format, and performance of the Third Party Service to allow the Payscale Integration. Customer understands and agrees that by using a Payscale Integration, Payscale may pull, collect, access, provide or share data with the Third Party Service as necessary to enable, maintain, support, and improve the integration between the Payscale Service and the Third Party Service. Third party integrations not developed by Payscale may be

utilized in some circumstances, and Payscale disclaims any warranty and cannot guarantee the functionality or security of such third party integrations.

6. TERM AND TERMINATION

6.1 Term; Auto-Renewal. The Term starts on the date Customer agrees to its first Order Form and continues until all Order Forms have expired or have been terminated as allowed under this Agreement. Customer's Subscription Term to the Payscale Services are set forth in the applicable Order Form. Except as otherwise specified in an Order Form, at the end of the then-current Subscription Term, Customer's subscription to a Payscale Service will automatically renew for the shorter of (a) the same period agreed upon in the applicable Order Form, and (b) three years (each a "**Renewal Subscription Term**") at Payscale's then-current list price unless: (i) Customer provides written notice of non-renewal to Payscale at least thirty (30) days before the start of a Renewal Subscription Term; or (ii) Payscale provides written notice of non-renewal to Customer at least sixty (60) days before the start of a Renewal Subscription Term.

6.2 Termination for Cause. A party may terminate this Agreement (and all Order Forms) or a specific Order Form by written notice to the other party if the other party materially breaches this Agreement, and, if the breach is capable of cure, fails to cure the breach within thirty (30) days after the notice is sent (notice must include specific detail of the breach). If Customer terminates this Agreement or an Order Form due to Payscale's material breach, then Payscale will refund Customer the prepaid Annual Subscription Fee applicable to the remainder of the terminated Payscale Services' Service Year, prorated from the effective date of termination and Customer will not be liable for paying fees due for the unused portion of the remaining Subscription Term. If Payscale terminates this Agreement or an Order Form due to Customer's material breach, Payscale will not refund any amounts paid by Customer and Customer remains liable for payment of all fees due under this Agreement.

6.3 Effects of Termination. Upon expiration or termination of this Agreement for any reason: (a) any amounts owed to Payscale under an Order Form before such termination or expiration will be immediately due and payable except as provided in Section 6.2 above; (b) Customer must discontinue all access and use of the Payscale Services and promptly delete all copies of Documentation and Payscale Data, however, de minimis usage of Payscale Data post-termination is permitted only where required as support for a compensation decision made during the Subscription Term, but in no event may Payscale Data be used for any new benchmarking or other activities post termination; and (c) Payscale will discontinue providing Customer the Payscale Services and Customer will lose access to the Account. All provisions that by their nature should survive termination or expiration will do so (including payment obligations, indemnification and defense obligations, limitation of liability, and duties of confidentiality). At any time during the Subscription Term, Customer may export Customer Data stored in the Payscale Services in accordance with the Documentation. Payscale shall delete Customer's Account and Customer Data following termination, subject to its record retention policies.

7. FEES AND PAYMENT FOR PAYSCALE SERVICES

7.1 Fees. Customer will pay all fees specified in Order Forms. Fees are quoted in United States dollars unless specified otherwise in an applicable Order Form. Payment obligations are non-cancelable and fees paid are non-refundable except as set forth in this Agreement.

7.2 Invoicing and Payment. Unless otherwise agreed upon in an Order Form: (a) Annual Subscription Fees will be invoiced in full and in advance annually; and (b) for other amounts due to Payscale under this Agreement, Payscale will invoice Customer in advance and in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, undisputed (in good faith) invoiced charges are due thirty (30) days after the date Payscale provides the invoice to the email provided by Customer to Payscale. Customer will provide Payscale complete and accurate billing and contact information and will notify Payscale of any changes to this information. If any undisputed (in good faith) invoiced amount is not received by Payscale by the due date, then without limiting Payscale's rights or remedies, (i) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by applicable law, whichever is lower, (ii) Payscale may suspend Customer's access to the Payscale Services and stop providing any Professional Services. Payscale will not apply late interest or suspend Customer's access to the Payscale Services if Customer is disputing applicable fees reasonably and in good faith and is cooperating with Payscale to diligently resolve the dispute. If an undisputed (in good faith) invoiced amount exceeds thirty (30) days past the due date set forth above, Payscale may refer collection of the unpaid amount to an attorney or collections agency, Customer shall pay reasonable attorney's fees or collections agency fees, and Payscale shall not be obligated to reinstate Payscale Services.

7.3 Taxes. Customer is responsible for any applicable taxes, including sales, use, levies, duties, or any value added or similar taxes (collectively, “**Taxes**”) payable with respect to Customer’s order of Payscale Services assessable by any local, state, provincial, federal, or foreign jurisdiction. Unless expressly specified otherwise in any Order Form, all fees, rates, and estimates exclude Taxes. Payscale is solely responsible for taxes based upon Payscale’s net income, assets, payroll, property, and employees. Notwithstanding the foregoing, if Customer is exempt from Taxes, concurrently with execution of this Agreement Customer shall provide Payscale with a certificate evidencing such exemption. If Customer’s status as an entity exempt from Taxes changes during the Term, Customer shall promptly notify Payscale.

8. CONFIDENTIALITY

8.1 Meaning of Confidential Information. As used in this Agreement, “**Confidential Information**” means all confidential information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), 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. Customer’s Confidential Information includes Customer Data. Payscale’s Confidential Information includes the Payscale Services and Documentation. Confidential Information of each party will include Order Forms, as well as business plans, technical information, product plans and designs, and business processes disclosed by such party. Confidential Information will not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party without use of, or reference to, the Disclosing Party’s Confidential Information.

8.2 Standard of Care. Except as otherwise permitted in writing by Disclosing Party, Receiving Party will (a) use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care), (b) not disclose or use any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement, and (c) limit access to Confidential Information of Disclosing Party to those of its employees, contractors, advisors, and agents with a need to know or who need access for purposes consistent with this Agreement and who are bound by confidentiality obligations at least as stringent to those in this Agreement. Notwithstanding the foregoing, the parties may disclose the terms and conditions of this Agreement as reasonably necessary (a) in connection with applicable open records laws that Customer is subject to and (b) to potential investors, acquirors, or regulators who are bound by confidentiality obligations at least as stringent to those in this Agreement.

8.3 Compelled Disclosure. The Receiving Party may disclose the Disclosing Party’s Confidential Information if required by applicable law or to comply with a court order or other governmental demand that has the force of law if, to the extent permitted by applicable law, the Receiving Party promptly notifies the Disclosing Party of that obligation prior to production so the disclosing party may seek a protective order or other remedy.

8.4 Remedies. Each party acknowledges that damages may be an inadequate remedy if the other party violates its obligations under this Agreement, and each party has the right, in addition to any other rights it may have, to seek injunctive relief without any obligation to post any bond or similar security. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. Other than as expressly stated in this Agreement, the remedies provided in this Agreement are in addition to, and not exclusive of, any other remedies of a party at law, in equity, or otherwise.

9. DATA PROCESSING AND PROTECTION

9.1 General Requirements. Payscale will maintain appropriate administrative, physical, and technical safeguards for the protection of the security and integrity of Customer Data as set forth in the Security Addendum located at <https://www.payscale.com/content/legal/sa.pdf> and Payscale shall not materially reduce such safeguards during the Subscription Term.

9.2 Data Storage. Customer understands and agrees that the Payscale Services host, process, and otherwise store Customer Data on its servers or using the cloud infrastructure of third party providers. Third party providers shall meet or exceed the safeguards for the protection and security of Customer Data agreed upon by Payscale

under this Agreement. Customer Data will be separated logically or through other technical means from the data of Payscale's other customers.

9.3 Data Processing Terms. Both parties agree to comply with applicable data privacy laws and regulations. In addition, the Data Processing Agreement available at <https://www.payscale.com/content/legal/dpa.pdf> ("DPA") applies to the extent Customer elects to load Customer Data into a Payscale Service subject to Data Protection Laws (as defined in the DPA).

9.4 Privacy Statement. Customer's use of Payscale Services is subject to Payscale's privacy statement, a current copy of which is located at <https://www.payscale.com/about/privacy-policy/>. In the event of a conflict between Payscale's privacy statement and the DPA, the DPA shall prevail.

10. WARRANTIES AND DISCLAIMERS

10.1 Mutual Warranties. Each party warrants to the other party that: (a) it has the authority to enter into this Agreement and perform its obligations under this Agreement; (b) it shall perform its obligations under this Agreement in accordance with applicable laws; (c) this Agreement does not conflict with any other agreement it is subject to and bound by; (d) it does not conduct business for any unlawful purpose, (e) it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement (provided that reasonable gifts and entertainment provided in the ordinary course of business do not violate this Section 10.1(e)), and (f) it is in compliance with all applicable laws regarding anti-corruption, including the Foreign Corrupt Practices Act and the U.K. Bribery Act.

10.2 Payscale Warranties. Payscale warrants that: (a) the Payscale Services will operate in substantial conformity with then-current and applicable Documentation so long as Customer uses the Payscale Services in accordance with this Agreement and the Documentation and for the limited purpose allowed under this Agreement; and (b) Professional Services will be performed in a professional manner in accordance with this Agreement. For any breach of the foregoing subsection (a), Customer's remedy will be for Payscale to correct the nonconformity in the Payscale Services. If Payscale determines this remedy to be impracticable, or otherwise is unable to provide a workaround within thirty (30) days of Customer notifying Payscale of the defect, then Customer may terminate the applicable Order Form for material breach in accordance with Section 6.2 above. Customer acknowledges that Payscale Services are subscription-based and that to deliver an improved customer experience, Payscale may make changes to Payscale Services (but any such changes will not result in a material degradation in or decrease in functionality of the Payscale Services). In such event, Payscale will update applicable Documentation accordingly.

10.3 Customer Warranties. Customer warrants that: (a) it possesses all necessary licenses, permissions, and other rights in and to Customer Data to grant to Payscale the license and rights to Customer Data as expressly granted in this Agreement and (b) to the best of its knowledge, Customer Data provided to Payscale is accurate and complete, and (c) Customer will not use the Payscale Services to violate antitrust or competition laws and regulations.

10.4 Disclaimers. Customer acknowledges that: (a) Payscale Data is for general information only; and (b) Customer's use of the Payscale Services does not constitute any form of advice, recommendation, representation, or arrangement (legal or otherwise) by Payscale or its licensors. Customer acknowledges that it is responsible for all of its decisions regarding compensation, salaries, and benefits regardless of its use of Payscale Services and Customer is encouraged to conduct independent due diligence and seek the assistance of a qualified legal professional in connection with such decisions. Payscale and its licensors do not warrant the access or use of Payscale Services in any specific situation or for any specific application, nor do they warrant that Payscale Data accessible through a Payscale Service will be always accessible (provided that this shall not excuse Payscale from its obligations in Section 3.1 of this Agreement) or that it will be accurate or error free. Customer acknowledges that Payscale provides the Payscale Services to its customers to permit them to make independent decisions regarding benefits and compensation. Except as expressly provided in this Agreement, to the maximum extent allowed under applicable law, the Payscale Services are provided "AS IS" and "AS AVAILABLE," and neither party makes any warranties of any kind, whether express, implied, statutory, or otherwise, and each party specifically disclaims all implied warranties, including, any implied warranties of merchantability, fitness for a particular purpose, non-infringement, or any warranties arising during course of performance.

11. DEFENSE AND INDEMNIFICATION AGAINST THIRD PARTY CLAIMS

11.1 Indemnification by Payscale. Subject to the terms and conditions set out in this Section 11, at its expense, Payscale will indemnify, defend and hold harmless Customer against any claim brought by a party that is not a party to this Agreement or an Affiliate of a party to this Agreement (“**Third Party Claim**”) arising out of, related to, or alleging (a) infringement or misappropriation a third party’s patent, copyright or other intellectual property right as a result of Customer’s authorized use of the Payscale Services (“**Infringement Claim**”), (b) Payscale’s use of Customer Data in breach of Section 4 (Data Rights and Usage) of this Agreement, or (c) Payscale’s breach of its confidentiality obligations set forth in Section 8 (Confidentiality). Payscale’s obligations pursuant to this Section include, without limitation: (i) settlement at Payscale’s expense and payment of judgments finally awarded by a court of competent jurisdiction, as well as payment of court costs and other reasonable expenses; and (ii) reimbursement of reasonable attorneys’ fees incurred before Payscale’s assumption of the defense (but not attorneys’ fees incurred thereafter). If a Payscale Service is subject to an Infringement Claim and as a result, Customer’s use of the Payscale Service is enjoined, Payscale will, at no cost to Customer, procure for Customer the right to continue using the Payscale Service or replace the Payscale Service with a non-infringing or modified alternative of materially equivalent functionality. If none of the foregoing options are available on terms that are commercially reasonable for Payscale, then Payscale may terminate Customer’s right to access and use of the Payscale Service subject to the Infringement Claim, and Payscale will refund Customer any prepaid Annual Subscription Fee for the unused portion of the applicable Payscale Service’s Service Year, prorated from the effective date of termination. Payscale’s obligations under this Section 11.1 with respect to any Third Party Claims will be comparatively reduced to the extent the Third Party Claim results from: (i) Customer Data if used by Payscale in accordance with this Agreement; (ii) any modification made to a Payscale Service by Customer, its Users, or a party at the direction of Customer or its Users (“**Customer Parties**”) without Payscale’s written consent if the Third Party Claim would have been avoided in the absence of such modification; (iii) the combination by Customer Parties of a Payscale Services with other products not originally embodied in the Payscale Service as delivered by Payscale if such infringement would have been avoided by not combining with such products; (iv) Customer’s use of a Payscale Service in breach of this Agreement; or (v) Customer’s gross negligence, fraud, or willful misconduct.

11.2 Indemnification by Customer. Subject to the terms and conditions set out in this Section 11, at its expense, Customer will indemnify, defend and hold harmless Payscale against any Third Party Claim arising out of, related to, or alleging (a) all or any part of the Customer Data violates the privacy or other legal right of a third party; (b) Customer’s use of a Payscale Service in breach of Section 2.3 of this Agreement; (c) Customer’s breach of its confidentiality obligations set forth in Section 8 (Confidentiality); (d) Customer’s breach of Section 5.1 (Third Party Services); or (e) a claim that Customer has violated compensation or pay equity laws or regulations. Customer’s obligations pursuant to this Section include, without limitation: (i) settlement at Customer’s expense and payment of judgments finally awarded by a court of competent jurisdiction, as well as payment of court costs and other reasonable expenses; and (ii) reimbursement of reasonable attorneys’ fees incurred before Customer’s assumption of the defense (but not attorneys’ fees incurred thereafter). Customer’s obligations under this Section 11.2 with respect to any Third Party Claims will be comparatively reduced to the extent the Third Party Claim results from: (i) Payscale’s use of Customer Data in breach of this Agreement; or (ii) Payscale’s gross negligence, fraud, or willful misconduct.

11.3 Process for Tendering Claims. With respect to the obligations of a party (“**Indemnitor**”) to defend and indemnify the other (“**Indemnitee**”) under this Agreement, the parties shall comply with the following: (a) Indemnitee must promptly inform Indemnitor in writing of any Third Party Claim within the scope of Indemnitor’s defense or indemnity obligations set forth in this Agreement, provided that Indemnitor will not be excused from its indemnity obligations for failure to provide prompt notice except to the extent that Indemnitor is prejudiced by any such failure to provide prompt notice; (b) Indemnitor will be given exclusive control of the defense of such Third Party Claim and all negotiations relating to the settlement thereof (except that Indemnitor may not make any admissions on Indemnitee’s behalf or settle any such Third Party Claim unless the settlement unconditionally releases Indemnitee of all liability); and (c) Indemnitee must reasonably assist Indemnitor in all necessary respects in connection with the defense of the Third Party Claim at Indemnitor’s expense. Indemnitor’s obligations under this Section 11 will be limited to the extent to which a court of final jurisdiction finds that Indemnitee contributed to the Third Party Claim. If Indemnitee elects to participate in the defense of a Third Party Claim that Indemnitor is defending per this Section 11, then such defense shall be at Indemnitee’s sole cost and expense. Unless otherwise provided in the Documentation, this Section 11 states Indemnitor’s sole liability, and Indemnitee’s exclusive remedy, with respect to the type of Third Party Claims described in this Agreement.

12. LIMITATION OF LIABILITY

12.1 Indirect and Consequential Damages; Aggregate Liability. TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW AND SUBJECT TO SECTION 12.2 BELOW, A PARTY WILL NOT BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW AND SUBJECT TO SECTION 12.2 BELOW, A PARTY'S AGGREGATE LIABILITY TO THE OTHER ARISING OUT OF, OR RELATED TO, THIS AGREEMENT (WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY) WILL BE LIMITED TO ACTUAL AND PROVEN DAMAGES IN AN AMOUNT NOT TO EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO Payscale UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM.

12.2 Exclusions to Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, A PARTY'S AGGREGATE LIABILITY ARISING OUT OF CLAIMS PURSUANT TO (A) AMOUNTS INCURRED BY A PARTY ACTING AS AN INDEMNITOR UNDER SECTION 11 ABOVE; (B) CUSTOMER'S USE OF A Payscale SERVICE IN VIOLATION OF SECTION 2.3 (USE RESTRICTIONS), (C) CUSTOMER'S OBLIGATION TO PAY ALL SUBSCRIPTION FEES DUE UNDER THIS AGREEMENT IN ACCORDANCE WITH SECTION 7, AND (D) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS SET FORTH IN SECTION 8, WILL BE LIMITED TO ACTUAL AND PROVEN DAMAGES IN AN AMOUNT NOT TO EXCEED FIVE (5) TIMES THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO Payscale UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM. THE LIMITATIONS SET OUT IN SECTIONS 12.1 AND 12.2 SHALL NOT APPLY TO ACTUAL AND PROVEN DAMAGES ARISING FROM A PARTY'S WILLFUL MISCONDUCT, FRAUD, OR GROSS NEGLIGENCE.

13. GENERAL PROVISIONS

13.1 Notices. Payscale may send announcements of general interest by email or by posting on its website or through Customer's Account, such as notices of new features, scheduled downtime, or upcoming events. Payscale will provide Customer with legal notices by email to the address provided by Customer. Customer will promptly notify Payscale if its contact information changes. Customer will provide Payscale with legal notices by email to legal@payscale.com.

13.2 Governing Law; Jurisdiction and Venue. This Agreement is governed by the laws of the State of Washington, without regard to conflicts of laws provisions. The jurisdiction and venue for actions related to this Agreement or its subject matter will be the state and federal courts located in Seattle, Washington, and both parties irrevocably consent to the personal jurisdiction of such courts and waive all objections thereto.

13.3 Assignment. Neither party may transfer or assign this Agreement, or any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld); except that a party may assign this Agreement in its entirety without the other party's consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties' respective successors and permitted assigns. Any attempted assignment in breach of this Section 13.3 shall be null and void.

13.4 Publicity. Payscale may identify Customer as a Payscale customer in or on Payscale's demonstrations, website, or other promotional materials. Payscale's use of Customer's name and logo will be in accordance with any guidelines provided by Customer. Upon Customer's written request, Payscale will promptly remove Customer's name or any Customer marks from Payscale's website, and to the extent feasible, Payscale's public marketing materials.

13.5 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted to best accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

13.6 Force Majeure. A party's performance of any part of this Agreement (except Customer's payment obligations shall not be excused in the event Customer is the party affected by a Force Majeure and otherwise has access to the Payscale Services, provided that reasonable delays in payment timing shall be discussed by the parties in good faith) will be excused to the extent that it is unable to perform due to natural disasters, terrorism, riots, insurrection, war, extraordinary governmental action, ISP Provider failures or delays, or any other cause which is beyond the reasonable control of such party ("**Affected Party**"), not avoidable by reasonable due diligence, and not caused by the Affected Party (each a "**Force Majeure Event**"). Upon the occurrence of a Force Majeure Event, the Affected Party will (a) exercise commercially reasonable efforts to mitigate damages to the other party and to overcome the Force Majeure Event, and (b) continue to perform its obligations under this Agreement to the extent it is able. If the period of nonperformance exceeds thirty (30) consecutive days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate the applicable Order Form, and Payscale shall provide Customer with a pro rata refund of any prepaid and unused fees.

13.7 Export Compliance. Each party will comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Payscale Services. Without limiting the foregoing, (a) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (b) Customer will not permit Users to access or use the Payscale Services in violation of any U.S. export embargo, prohibition, or restriction. Customer agrees not to export, re-export or transfer any part of the Payscale Services in violation of export laws and regulations.

13.8 Government End Use Provisions. Payscale provides the Payscale Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Payscale Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, the parties must agree to mutually acceptable written addendum specifically conveying such rights.

13.9 Miscellaneous. Except as otherwise provided in this Agreement, there are no third party beneficiaries under this Agreement. Any claims against Payscale or its Affiliates under this Agreement may only be brought by the Customer entity that is a party to this Agreement. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent. Customer agrees that its purchases of all Payscale Services under this Agreement are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Payscale regarding future functionality or features.

13.10 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment, or waiver is to be asserted. No terms or conditions included in any purchase order or order documentation (excluding Order Forms) provided by Customer, or as a part of Customer's vendor set-up process, will be incorporated into, or form any part of, this Agreement, and all such terms or conditions are null and void even if such terms or conditions are accepted by Payscale or Payscale accepts payment from Customer.

13.11 Counterparts and Authority. This Agreement may be executed electronically (e.g., via DocuSign or similar service) in counterparts, and all counterparts executed constitutes one agreement, binding upon all the parties. The parties represent and warrant to the other that the individual signing below has the right and authority to execute this Agreement on behalf of the undersigned.

Accepted and agreed:

Customer: <insert legal name>

Payscale, Inc.

Signature: _____

Signature: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____