

COBB COUNTY, GA

Contract #18220

for

Workforce Management Systems and Related Products,

Services and Solutions

with

Kronos Incorporated

Effective: March 18, 2019

The following documents comprise the executed contract between the Cobb County, GA, Kronos Incorporated, effective March 18, 2019:

- I. Vendor Master Agreement Reference No. 18220 and Signature Form
- II. Kronos Terms and Conditions for Participating Public Agencies
– Exhibit A (022019)

Reference No. 18220

Reference Number	
Reference Depart.	Purchasing Department

Master Agreement

Owner: Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Contractor: Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

Description: **WORKFORCE MANAGEMENT SYSTEMS AND RELATED PRODUCTS, SERVICES AND SOLUTIONS:** The undersigned parties understand and agree to comply with and be bound by the entire contents of **Sealed Bid #18-6390** ("the RFP") and the Contractor's Proposal submitted September 27, 2018 which is incorporated herein by reference. Contractor understands and agrees that insurance required in the Request for Proposals are to be kept current at all times through the length of each term and for ninety (90) days following the completion of each term. Insurance must be renewed and presented to the Owner at the time of each renewal term if Owner chooses to renew. Insurance shall be written by a firm acceptable to the Owner as specified in the Request for Proposals.

U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE: Contractor agrees to enter into the U.S. Communities Administration Agreement that is included in the RFP and the memorandum of understanding with U.S. Communities ("Administration Agreement"). Any Public Agency, as defined in the Administration Agreement, may purchase Products and Services at the prices indicated in the Contractor's Proposal upon prior registration with U.S. Communities, and in accordance with the terms of the Administration Agreement.

Terms: **March 18, 2019 to March 17, 2022** with full renewal options per the Request for Proposals. Owner shall exercise renewal options by issuance and delivery to Contractor of a written notice to renew this agreement. Orders executed with public entities in the state of Georgia shall be in compliance with multi-year contract provisions of O.C.G.A. Section 36-60-13. The products and services which are subject to this Master Agreement are also covered by the applicable Contractor commercial service or maintenance terms and conditions incorporated as Appendix A. The term of the Commercial service or maintenance terms and conditions shall be governed by that applicable order and may extend beyond the expiration date of this Master Agreement. In the event of conflicting language between the Terms and Conditions of the Master Agreement, including the RFP, and the terms and conditions contained in Appendix A, the Master Agreement shall prevail.

Price: Prices for services and equipment, if applicable, as stated in the Contractor's proposal

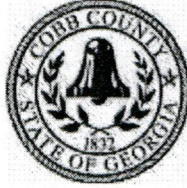
Billing: For purchases made by Cobb County Government, all original invoices shall be submitted directly to the Cobb County Finance Department. Invoices shall bill only for items received during the period covered by the invoice and shall clearly identify such items in accordance with invoicing guidelines in the Sealed Bid Proposal. For purchases made by participating public agencies, the Contractor shall comply with each agency's invoicing and billing requirements outlined on the applicable order.

{SIGNATURES ON NEXT PAGE}

IN WITNESS, WHEREOF, this Agreement has been executed by Owner and accepted by Contractor to be effective as of the date first above written.

APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS

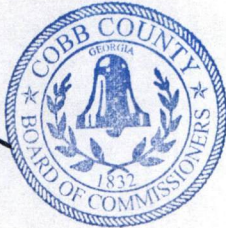
2-12-2019



Cobb County... Expect the Best!

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Michael H. Boyce, Chairman
Cobb County Board of Commissioners



3-5-2019

Date

Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

Authorized Signature

Chief Revenue Officer

Title

2/25/19

Date

FEDERAL TAX ID NUMBER

04-2640942

Approved as to form

County Attorney's Office

3/4/19

Date

Exhibit A

KRONOS TERMS AND CONDITIONS FOR PARTICIPATING PUBLIC AGENCIES ADMINISTERED BY US COMMUNITIES
(022019)

KRONOS TERMS

A PARTICIPATING PUBLIC AGENCY (“CUSTOMER”), BY SIGNING AN ORDER FORM OR PURCHASE ORDER WITH KRONOS INCORPORATED, AGREES TO THE APPLICATION OF THESE TERMS AND CONDITIONS FOR ALL PRODUCTS, SERVICES AND OFFERINGS SET FORTH ON SUCH ORDER FORM (OR PURCHASE ORDER) WHICH REFERENCES THESE TERMS AND CONDITIONS.

- SECTION A: [GENERAL TERMS AND CONDITIONS](#). This Section apply for all transactions.
- SECTION B: **TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND PROFESSIONAL SERVICES.** This Section apply for all transactions except Workforce Ready and the Workforce Central SaaS offering (not including the professional and educational services governed by this Section).
- SECTION C: [CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS](#) . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and identified as CLOUD. For renewal of the Cloud Services only.
- SECTION D: [KRONOS WORKFORCE CENTRAL SAAS TERMS AND CONDITIONS](#). This Section applies only for Workforce Central transactions in a SaaS environment (except for the related professional and educational services see Section B)
- SECTION E: [KRONOS ADDENDUM WORKFORCE TELESTAFF IVR SERVICE](#). This Section applies to the Workforce Telestaff IVR service.
- SECTION F: [KRONOS HEALTHCARE EXTENSION WITH THE WORKFORCE CENTRAL SAAS](#). This section applies to the Healthcare Extension ordered with the Workforce Central SaaS.
- SECTION G: [KRONOS HEALTHCARE EXTENTION WITH THE APPLICATION HOSTING](#). This section applies to the Healthcare extension ordered with the Kronos Application Cloud services.
- SECTION H: [BUSINESS ASSOCIATED AGREEMENT](#). This Section applies with the services ordered under Sections G, H and K.
- SECTION I: [CLOUD SERVICES FOR EXTENSION APPLICATION](#). This Section applies with the Sections G and H.
- SECTION J: [CLIENT PARTNERSHIP SERVICES](#). This Section applies to the client Partnership services ordered by Healthcare Customers.
- SECTION K: [KRONOS WORKFORCE DIMENTIONS TERMS AND CONDITIONS](#). This section applies to the Workforce Dimension Services ordered by Customers.

SECTION A: GENERAL TERMS AND CONDITIONS

1. APPLICATION OF THESE TERMS

These terms and conditions apply to each order accepted by Kronos Incorporated ("Kronos") from an eligible Participating Public Agency ("Customer") for all Kronos Equipment, Software, Professional and Educational Services, Support and such other Kronos offerings, as specified on an order form (an "Order").

In addition to the terms set forth in this Section A: General Terms and Condition, the following sections apply for the specific offering referenced:

- (i) Section B shall apply to the Software licenses and purchased Equipment, support services, and professional and educational services,
- (ii) Section C shall apply to the Hosting Services purchased in connection with certain Software licensed under Section B,
- (iii) Section D shall apply to the Workforce Central Saas Orders;
- (iv) Section E shall apply to Workforce Telestaff IVR ordered to Kronos;
- (v) Section F shall apply to the Kronos Healthcare Extension order;
- (vi) Section G shall apply to the Healthcare Extension ordered with the Kronos Application Cloud services;
- (vii) Section H shall apply with the services ordered under Sections F, G and J.;
- (viii) Section I shall apply with the Sections F and G.
- (ix) Section J shall apply to the client Partnership services ordered by Healthcare Customers.
- (x) Section K shall apply to the Workforce Dimension orders.

All orders are subject to the approval of Kronos' corporate office in Chelmsford, Massachusetts. This Agreement and the Order Form shall supersede the pre-printed terms of any Customer purchase order or other Customer ordering document, and no such Customer pre-printed terms shall apply to the items ordered.

2. APPLICABLE LAWS

This Agreement shall be governed by the state law in which Customer is based, provided however, if such jurisdiction has adopted the Uniform Computer Information Transactions Act (UCITA), or such other similar law, the parties expressly agree to "opt-out" of and not be governed by UCITA or such other similar law. The parties waive the application of the United Nations Commission on International Trade Law and United Nations Convention on Contracts for the International Sale of Goods as to the interpretation or enforcement of this Agreement.

3. EXPORT

Customer acknowledges that the Equipment and Software may be restricted by the United States Government or by the country in which the Equipment or Software is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment and Software may be used by Customer. Customer's obligations hereunder shall survive the termination or expiration of the Order Form. Customer must obtain Kronos prior written consent before exporting the Software.

4. CONFIDENTIAL INFORMATION

"Confidential Information" is defined as information that is: i) disclosed between the parties after the date of this Agreement that is considered confidential or proprietary to the disclosing party; and ii) identified as "confidential" at the time of disclosure, or would be reasonably obvious to the receiving party to constitute confidential information because of legends or other markings, by the circumstances of disclosure or the nature of the information itself. Additionally, Customer acknowledges and agree that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos' Confidential Information and trade secret. Each party shall protect the Confidential Information of the other party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such party utilizes for its own information of similar character that it does not wish disclosed to the public. Neither party shall disclose to third parties (except the parent company or the wholly owned subsidiaries of the receiving party who have a need to know) the other party's Confidential Information, or use it for any purpose not explicitly set forth herein, without the prior written consent of the other party. Notwithstanding the foregoing, a party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Agreement and who are under obligations of non-disclosure agreement at least as stringent as this section 4, or (c) by law (including the applicable public record laws), or by a court or governmental agency, or if necessary in any proceeding to establish rights or obligations under the Agreement; provided, the receiving party shall, unless legally prohibited, provide the disclosing party with reasonable prior written notice sufficient to permit the disclosing party an opportunity to contest such disclosure. If a party commits, or threatens to commit, a breach of this Section 4, the other party shall have the right to seek injunctive relief from a court of competent jurisdiction. The obligation of confidentiality shall survive for three (3) years after the disclosure of such Confidential Information.

This Agreement imposes no obligation upon either party with respect to the other party's Confidential Information which the receiving party can establish by legally sufficient evidence: (a) was rightfully possessed by the receiving party without an obligation to maintain its confidentiality prior to receipt from the disclosing party, (b) is generally known to the public without violation of this Agreement; (c) is obtained by the receiving party in good faith from a third party having the right to disclose it without an obligation with respect to confidentiality; (d) is independently developed by the receiving party without use of the disclosing party's confidential information, which can be shown by tangible evidence.

5. TAXES

If Customer presents to Kronos a validly issued tax-exempt certificate, or other sufficient evidence of tax exemption, Customer shall not be liable for those taxes for which Customer is exempt. Otherwise, Customer agrees to pay all other applicable duties and customs fees relating to this Agreement, as well as all taxes levied or based on the products, services or other charges hereunder,

including federal, state and local sales and excise taxes, and any taxes or amount in lieu thereof paid or payable by Kronos, exclusive of taxes based on Kronos net income or business privilege.

6. TRAVEL EXPENSES

Customer agrees to reimburse Kronos for all pre-approved, reasonable and necessary travel incurred by Kronos in the performance of its obligations under this Agreement provided that such travel complies with the then current Kronos Travel and Expense Policies (such policies are available upon request) or such other mutually agreed policies or mutually agreed between the parties in the statement of work. Customer further agrees to pay any travel expenses such as airfare, lodging, meals and local transportation, incurred by Kronos in the performance of its obligations under this Agreement provided such expenses comply with the Agreement. Customer will be billed by Kronos for such travel expenses and payment thereof shall be due net 30.

7. GENERAL

(a) The invalidity or illegality of any provision of this Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.

(b) Customer shall not assign this Agreement or the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.

(c) Neither Party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement (other than a failure to comply with payment obligations) where and to the extent that such failure or delay results from an unforeseeable event beyond a party's reasonable control, including but not limited to, acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefor, or lack of or delay in transportation (each a "Force Majeure Event").

(d) All notices given under this Agreement shall be in writing and sent postage pre-paid, if to Kronos, to the Kronos address on the Order Form, or if to Customer, to the billing address on the Order Form.

(e) The section headings herein are provided for convenience only and have no substantive effect on the construction of this Agreement.

(f) The parties agree that the Order signed by both parties and expressly reference this Agreement, which is delivered via fax or electronically delivered via email it shall constitute a valid and enforceable agreement.

(g) This Agreement and any information expressly incorporated herein (including information contained in any referenced URL), together with the applicable Order Form, constitute the entire agreement between the parties for the products and services described herein and supersede all prior or contemporaneous representations, negotiations, or other communications between the parties relating to the subject matter of this Agreement. This Agreement may be amended only in writing signed by authorized representatives of both parties. Customer understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Customer is not entitled to any products or product enhancements other than those contained on the Order Form. Customer has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Agreement.

(h) Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraph (c)(1)(2) of the Commercial Computer Software Restricted Rights clause at FAR 52.227-19, as applicable. Manufacturer/distributor is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA.

(i) The JBoss® Enterprise Middleware components embedded in the Software are subject to the End User License Agreement found at http://www.redhat.com/licenses/jboss_eula.html.

(j) Customer may pay an invoice by credit card if the amount is not greater than \$50,000.00.

(k) Kronos agrees to comply with any applicable federal, state and local laws and regulations.

(l) Additionally, Kronos agrees to be liable for tangible property damage or personal injury to the extent caused by the negligence or willful misconduct of its employees.

SECTION B
TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES,
AND EDUCATIONAL AND PROFESSIONAL SERVICES

This Section B applies to Software licensed, Equipment purchased, support services for Software and Equipment, and educational and professional services, when such items are identified on the Order which expressly references this Agreement.

1. PAYMENT AND DELIVERY

Unless otherwise set forth in this Agreement, payment terms are indicated on the Order Form or other contemporaneous ordering document containing product-specific payment terms signed by the parties. Delivery terms are as stated on the Order Form ("Delivery"). Kronos will invoice Customer for products upon Delivery. Unless otherwise set forth on the Order Form, Professional and Educational Services are provided on a time and materials basis, invoiced monthly as rendered.

2. GENERAL LICENSE TERMS

Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos' written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Customer pays for a copy of the Software constitutes a license fee that entitles Customer to use the Software as set forth below. Kronos grants to Customer a non-exclusive, nontransferable, perpetual (except as provided herein) license to use the Software. This license may be terminated by Kronos by written notice to Customer upon any material breach of this Agreement by Customer which remains uncured for a period of thirty (30) days after such written notice from Kronos. Upon such termination of this license by Kronos, Customer will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Customer's possession or control. This license is subject to all of the terms of this Section B.

3. FEE BASED LIMITATIONS

Customer recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Customer. Limitations, which are set forth on the Order Form, may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Customer agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Customer's own business. Customer agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Customer pays the applicable fee for such increase/upgrade. Customer may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos.

4. OBJECT CODE ONLY

Customer may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompiled or unassembled code. The Programs include components owned by third parties. Such third party components are deemed to be Software subject to this Section B. Customer shall not use any of the Programs (or the data models therein) except solely as part of and in connection with the Software and as described in the published documentation for such Software.

5. PERMITTED COPIES

Customer may copy the Programs as reasonably necessary to load and execute the Programs and for backup and disaster recovery and testing purposes only, except for additional copies of the Teletime Software and the Kronos iSeries (which must be licensed separately). All copies of the Programs or any part thereof, whether in printed or machine readable form and whether on storage media or otherwise, are subject to all the terms of this license, and all copies of the Programs or any part of the Programs shall include the copyright and proprietary rights notices contained in the Programs as delivered to the Customer.

6. UPDATES

In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as "Updates"), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.

7. ACCEPTANCE

For Customer's initial purchase of each Equipment and Software product Kronos shall provide an acceptance test period (the "Test Period") that commences upon Installation. Installation shall be defined as: a.) the Equipment, if any, is mounted; b.) the Software is installed on Customer's server(s); and c.) implementation team training, if any, is complete. During the Test Period, Customer shall determine whether the Equipment and Software meet the Kronos published electronic documentation, ("Specifications").

The Test Period shall be for 30 days. If Customer has not given Kronos a written deficiency statement specifying how the Equipment or Software fails to meet the Specifications ("Deficiency Statement") within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Kronos shall have 30 days to correct the deficiency, and Customer shall have an additional 30 days to evaluate the Equipment and Software. If the Equipment or Software does not meet the Specifications at the end of the second 30 day period, either Customer or Kronos may terminate this Agreement. Upon any such termination, Customer shall return all Equipment and Software (and related documentation) to Kronos, and Kronos shall refund any monies paid by Customer to Kronos for the returned Equipment and Software. Neither party shall then have any further liability to the other for the products that were the subject of the Acceptance Test.

8. LIMITED WARRANTY

Kronos warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Customer's remedy shall be Kronos' repair or replacement of the deficient Equipment and/or Software media, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:

- (a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- (b) failure of Customer to provide and maintain a suitable installation environment, as specified in the Specifications; or
- (c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

When using and applying the information generated by Kronos products, Customer is responsible for ensuring that Customer complies with requirements of federal and state law where applicable. If Customer is licensing Workforce Payroll Software or Workforce Absence Management Software: (i) Customer is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using such Software, (ii) using such Software does not release Customer of any professional obligation concerning the preparation and review of such reports and documents, (iii) Customer does not rely upon Kronos, Best Software, Inc. or such Software for any advice or guidance regarding compliance with federal (and state laws where applicable) or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Customer will review any calculations made by using such Software and satisfy itself that those calculations are correct.

9. PROFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS

Unless otherwise indicated on the Order, Professional and Educational Services ("Professional Services") shall be provided on a time and material basis and described in a statement of work. If a dollar limit is stated in the Order Form or any associated statement of work ("SOW"), the limit shall be deemed an estimate for Customer's budgeting and Kronos' resource scheduling purposes. After the dollar limit is expended, Kronos will continue to provide Professional Services on a time and materials basis, if a Change Order or Schedule of Services for continuation of the Professional Services is signed by both parties.

(b) WARRANTY

Kronos warrants that all professional and educational services performed under this Agreement shall be performed in a professional and competent manner. In the event that Kronos breaches this warranty, and Customer so notifies Kronos within 30 days of receipt of invoice for the applicable services, the Customer's remedy and Kronos' liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Customer.

(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES

Kronos' then-current Professional/Educational Services Policies shall apply to all Professional and/or Educational Services purchased under the applicable SOW and may be accessed at: <http://www.kronos.com/Support/ProfessionalServicesEngagementPolicies.htm> ("Professional Services Policies"). In the event of a conflict between the Professional Services Policies and this Agreement, the terms of this Agreement shall prevail.

10. SOFTWARE SUPPORT SERVICES

The following terms and conditions shall govern the Software support services provided by Kronos to Customer.

10.1 SUPPORT OPTIONS

Customer may select from the following Software support purchase options: Gold (or Gold Plus) and Platinum (or Platinum Plus) support ("Service Type"), each providing different service coverage periods and/or service offerings, as specified herein ("Service Offerings") and in the Kronos Support Service Policies (defined below). Customer must purchase the same Service Type for all of the Software specified on the Order Form, (however, if Customer is purchasing support services for Visionware Software, Customer may only purchase Gold Service Type for the Visionware Software). All Updates shall be provided via remote access.

10.2 TERM OF SOFTWARE SUPPORT

Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Support service may be renewed for additional one (1) year terms on the anniversary date of its commencement date by mutual written agreement of the parties or by Kronos sending Customer an invoice for the applicable renewal term and Customer paying such invoice prior to the commencement of such renewal term. After the one year initial term of this Agreement, the Service Offerings provided and the Service Coverage period are subject to change by Kronos with sixty (60) days advance written notice to Customer. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year's annual support fee.

10.3 GOLD SERVICE OFFERINGS

Customer shall be entitled to receive:

- (i) Updates for the Software (not including any Software for which Kronos charges a separate license fee), provided that Customer's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Kronos. If Customer requests Kronos to install such Updates or to provide retraining, Customer agrees to pay Kronos for such installation or retraining at Kronos' pricing set forth in this Agreement.

(ii) Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.

(iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Customer forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at <http://www.kronos.com/services/support-services.aspx>.

(iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.

(v) Access to specialized content as and when made available by Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

10.4 PLATINUM AND PLUS SERVICE OFFERINGS:

Platinum: In addition to the Service Offerings specified for the Gold Service Offering above, the Service Coverage Period for the Platinum Service Offering is 24 hours a day, seven days a week, 365 days a year.

Plus option: In addition to the Service Offerings specified for the Gold Service Offering above, Customers purchasing the Plus option shall receive the services of a dedicated, but not exclusive, Kronos Technical Account Manager ("TAM") for one production instance of the Software. Customers purchasing the Gold-Plus option shall designate up to one primary and one secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM, while Customers purchasing the Platinum-Plus option shall designate up to two primary and three secondary backup Technical Contacts. Upon request, Customer may designate additional and/or backup Technical Contacts. Customer is required to place all primary Technical Contacts through Kronos product training for the Software covered under this Section B at Customer's expense.

Customers purchasing the Platinum-Plus option shall also receive a one day per year visit to be performed at the Customer location where the Software is installed. During this onsite visit, Kronos shall work with Customer to identify ways to help Customer increase functionality or maximize utilization of the Software in Customer's specific environment. Customer must be utilizing the then-current version of the Software.

10.5 PAYMENT

Customer shall pay annual support charges for the initial term in accordance with the payment terms on the Order Form and for any renewal term upon receipt of invoice. Customer shall pay additional support charges, if any, and time and material charges upon receipt of invoice.

10.6 ADDITION OF SOFTWARE

Additional Software purchased by Customer as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to the Support Services at the same support option as the then current Software support coverage in place under these terms. Customer agrees to pay the charges for such addition as per the Order.

10.7 RESPONSIBILITIES OF CUSTOMER

Customer agrees (i) to provide Kronos personnel with full, free and safe access to Software for purposes of support, including use of Kronos' standard remote access technology, if required; (ii) to maintain and operate the Software in an environment and according to procedures which conform to the Specifications; and (iii) not to allow support of the Software by anyone other than Kronos without prior written authorization from Kronos. Failure to utilize Kronos' remote access technology may delay Kronos' response and/or resolution to Customer's reported Software problem. If Customer requires the use of a specific remote access technology not specified by Kronos, then Customer must purchase the Plus option to receive support and provide Kronos personnel with full, free and safe access to the remote access hardware and/or software.

10.8 DEFAULT

Customer shall have the right to terminate Kronos support services in the event that Kronos is in breach of the support services warranty set forth below and such breach is not cured within fifteen (15) days after written notice specifying the nature of the breach. In the event of such termination, Kronos shall refund to Customer on a pro-rata basis those pre-paid annual support fees associated with the unused portion of the support term. Kronos reserves the right to terminate or suspend support service in the event the Customer is in default under this Agreement with Kronos and such default is not corrected within fifteen (15) days after written notice. In addition, the support services will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

10.9 WARRANTY

Kronos warrants that all support services shall be performed in a professional and competent manner.

11. EQUIPMENT SUPPORT SERVICES

The following terms and conditions shall govern the equipment support services provided by Kronos to Customer. Kronos and Customer hereby agree that Kronos shall provide depot equipment repair support services ("Depot Support Services") for Customer's Kronos Equipment ("Product(s)") specified on an Order Form to and from locations within the United States and Puerto Rico pursuant to the following terms and conditions:

11.1 TERM

Equipment Support Services for the Product(s) have a term of one (1) year commencing upon the expiration of the applicable warranty period, as specified in this Section B. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date") by mutual written agreement of the parties or by Kronos sending Customer an invoice for the applicable renewal term and Customer paying such invoice prior the commencement of such renewal term. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year's annual support fee to the extent consistent with the pricing set forth under the Agreement.

11.2 PAYMENT

Customer agrees to pay the Support Charges for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), will be subject to this Agreement. Customer agrees that if Customer purchases, during the term of this Agreement, any Products of the same type as those specified on an Order Form, such additional Products shall be subject to this Agreement. Customer agrees to pay a prorated fee for such additional Products and agrees to pay the full annual fee for such additional Products, upon the renewal date.

Kronos will invoice Customer for the annual Support Charges each year in advance of the Renewal Date. Customer will pay Kronos within thirty (30) days of receipt of invoice.

11.3 DEPOT SUPPORT SERVICE DESCRIPTION

Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and can be found at <https://customer.kronos.com/contact/contact-phone.aspx> and are subject to change. Return and repair procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies. Service packs for the Equipment (as described in subsection (b) below) are included in both Depot Exchange and Depot Repair Support Services.

(i) *Depot Exchange*: Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Customer's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Customer, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

(ii) *Depot Repair*: Upon failure of installed Equipment, Customer shall install a Spare Product to replace the failed Equipment. Customer shall then return the failed Equipment, with the required RMA, to the applicable Kronos Depot Repair Center. Customer shall make reasonable efforts to return the failed Equipment using the same or substantially similar packing materials in which the original Equipment was sent. Customer shall also specify the address to which the repaired Equipment should be return shipped. Upon receipt of the failed Equipment, Kronos shall repair the failed Equipment and ship it, within ten (10) business days after receipt, to Customer. Kronos shall ship the repaired Equipment by regular surface transportation to Customer. Kronos warrants that all repairs performed under the Agreement shall be performed in a professional and competent manner. In the event of a breach of this warranty, the exclusive remedy of Customer and sole liability of Kronos shall be replacement of the repaired Equipment.

11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION

If Customer purchase the Equipment service packs support, Kronos manufactured terminals specified on an Order, Customer shall be entitled to receive:

- (i) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and
- (ii) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment.

Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos.

Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

11.5 RESPONSIBILITIES OF CUSTOMER

Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Customer. In addition, Customer agrees to:

- (a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;
- (b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;
- (c) Ensure that the Product(s) are returned to Kronos properly packaged; and

(d) Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by Kronos when issuing the RMA.

11.6 SUPPORT EXCLUSIONS

Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Customer will not attempt to return damaged Product, resulting from:

- (a) Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- (b) Customer's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
- (c) Customer's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- (d) Customer's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- (e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- (f) Customer's repair, attempted repair or modification of the Products.

Professional services provided by Kronos in connection with the installation of any Software or firmware upgrades, if available, and if requested by Customer, are not covered by Depot Support Services. Firmware (including equipment service packs) which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Customer is maintaining the Product under an annual Depot Support Services plan with Kronos.

11.7 WARRANTY

(a) Depot Repair and Exchange warranty: Kronos warrants that all repairs performed under this Section B shall be performed in a professional and competent manner.

(b) Services Pack support Warranty: Kronos warrants that all service packs and firmware updates provided under this Section B shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

11.8 LIMITATION OF REMEDIES

To the extent permitted by law, the remedy of Customer and liability of Kronos shall be replacement of the repaired Product.

12. KRONOS SUPPORT SERVICE POLICIES

Kronos' then-current Support Services Policies shall apply to all Support Services purchased and may be accessed at: <http://www.kronos.com/Support/SupportServicesPolicies.htm> ("Support Policies"). In the event of a conflict between the Support Policies and this Agreement, the terms of this Agreement shall prevail.

13. FIRMWARE

Customer may not download firmware updates for the Kronos Equipment unless Customer is maintaining such Equipment under a support plan with Kronos. If Customer is not maintaining the Equipment under a support plan with Kronos, Kronos shall have the right to verify Customer's Kronos Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled.

14. TRAINING POINTS

Training Points which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Available instructor-led sessions are listed at <http://customer.kronos.com> and each session has the Training Points value indicated. Training Points are invoiced when used by the Customer. Points may be redeemed at any time within 12 months of the date of the applicable Order Form, at which time they shall expire. Training Points may not be exchanged for other Kronos products and/or services.

15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

The parties hereby agree that the following terms shall apply to Customer's purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

Scope: The KnowledgePass Education Subscription is available to customers who are licensing Kronos' Workforce Central and iSeries Timekeeper Software products and who are maintaining such products under a support plan with Kronos. The KnowledgePass Education Subscription provides access via the internet to certain educational offerings provided by Kronos (the "KnowledgePass Content"), including:

- Product and upgrade information for project teams and end users
- Hands-on interactive instruction on common tasks
- Self-paced tutorials covering a range of topics
- Job aids
- Knowledge assessment and reporting tools to measure progress
- Webinars

Term of Subscription: The annual KnowledgePass Education Subscription shall run co-terminously with Customer's Software Support, and shall renew for additional one (1) year terms provided Customer renews its KnowledgePass Education Subscription as provided below.

Payment: Customer shall pay the annual subscription charge for the initial term of the KnowledgePass Education Subscription in accordance with the payment terms on the Order Form. Kronos will send Customer a renewal invoice for renewal of the KnowledgePass Education Subscription at least forty five (45) days prior to expiration of the then current term. KnowledgePass Education Subscription shall renew for an additional one (1) year term if Customer pays such invoice before the end of the initial term or any renewal term.

The KnowledgePass Subscription is available when the Customer subscribe on annual basis.

Limitations: Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in *pdf form solely for Customer's internal use and may not disclose such KnowledgePass Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's internal use.

Train-the-Trainer Program (TTT): Certification under the Train-the-Trainer Program is valid only for the point release of the Software for which the TTT Program is taken, and covers only the Customer employee who completes the TTT Program.

16. INDEMNIFICATION

Kronos agrees to indemnify Customer and to hold it harmless from and against any and all claims, costs, fees and expenses (including reasonable legal fees) relating to actual or alleged infringement of United States or Canadian patents or copyrights asserted against Customer by virtue of Customer's use of the Software as delivered and maintained by Kronos, provided that: i) Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim; and, ii) Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer's possession related to such claim and any further assistance as reasonably requested by Kronos. Kronos will have no obligation to indemnify Customer to the extent any such claim is based on the use of the Software with software or equipment not supplied by Kronos. Should any or all of the Software as delivered and maintained by Kronos become, or in Kronos' reasonable opinion be likely to become, the subject of any such claim, Kronos may at its option: i) procure for Customer the right to continue to use the affected Software as contemplated hereunder; ii) replace or modify the affected Software to make its use non-infringing; or iii) should such options not be available at reasonable expense, terminate this Agreement with respect to the affected Software upon thirty (30) days prior written notice to Customer. In such event of termination, Customer shall be entitled to a pro-rata refund of all fees paid to Kronos for the affected Software, which refund shall be calculated using a five year straight-line depreciation commencing with the date of the relevant Order. Additionally, Kronos agrees to be liable for tangible property damage or personal injury to the extent caused by the negligence or willful misconduct of its employees.

17. LIMITATION OF LIABILITY

CUSTOMER'S EXCLUSIVE REMEDIES AND KRONOS' SOLE LIABILITY FOR ANY KRONOS BREACH OF THIS AGREEMENT ARE EXPRESSLY STATED HEREIN. EXCEPT AS PROVIDED IN THIS AGREEMENT, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

EXCEPT FOR i) KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 16 ABOVE; (II) CUSTOMER'S CLAIMS FOR TANGIBLE PROPERTY DAMAGE OR PERSONAL INJURY TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY'S EMPLOYEES, IN NO EVENT SHALL KRONOS' OR ITS PARENTS', SUBSIDIARIES', AFFILIATES', OR THIRD PARTY LICENSOR'S LIABILITY TO A CUSTOMER, HOWSOEVER CAUSED, EXCEED THE VALUE OF THE ORDER WHICH GIVES RISE TO THE CLAIM, AND IN NO EVENT WILL KRONOS OR ITS PARENTS, SUBSIDIARIES AFFILIATES OR THIRD PARTY LICENSORS BE LIABLE FOR LOST PROFITS, LOST DATA OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR CUSTOMER'S SPECIFIC USE OF, OR INABILITY TO SO USE, ANY EQUIPMENT, SOFTWARE OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

18. TERMINATION OF ORDER FORM OR SOW

(a) Termination for breach. For any breach of this Agreement by Kronos in relation with that Customer which cannot be cured by repair, replacement or re-performance, Customer shall have the right to terminate this the Order Form or applicable SOW upon thirty (30) days prior written notice to Kronos, provided Kronos has not cured such breach during such thirty (30) day period. Upon such termination, Customer shall be entitled to pursue its remedies at law or in equity subject to the terms of this Agreement.

(b) Termination for non-appropriation of funds. Should the funding for the services ordered by Customer be discontinued, Customer shall have the right to terminate the Order Form relating to such services ordered upon a 30 days written advance notice to Kronos. In such event, the Customer agrees to pay for the products delivered and the services performed under the terms of the Agreement prior to the receipt by Kronos of the termination notice.

**SECTION C
CLOUD APPLICATION HOSTING
SUPPLEMENTAL TERMS AND CONDITIONS**

These terms and conditions apply to the cloud services which are identified in the Pricing as the Cloud in the Pricelist Name.

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement.

1. DEFINITIONS

“**Acceptable Use Policy**” means the Kronos policy describing prohibited uses of the Cloud Services as further described at: <https://www.kronos.com/policies/acceptable-use>

“**Application(s)**” means those Kronos software applications set forth on the applicable Order Form (or a schedule to the Order Form if Customer is only hosting a portion of the Applications for which Customer has a perpetual license) and which are made accessible to Customer for use in the Kronos Private Cloud under the terms of this Section C.

“**Billing Start Date**” means the date on which billing for the Cloud Services will commence, as indicated on the Order Form.

“**Cloud Services**” means access to the password protected customer area of the Kronos Private Cloud and those services related thereto, all as further described at: <http://www.kronos.com/products/workforce-central-cloud/cloud-guidelines.aspx>

“**Customer Content**” means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Kronos Private Cloud.

“**Initial Term**” means the initial billing term of the Cloud Services as indicated on the Order Form. The Initial Term commences on the Billing Start Date. Customer may have access to the Cloud Services prior to the commencement of the Initial Term.

“**Monthly Services Fee(s)**” means the monthly fees described in the applicable Order Form.

“**Order Form**” means an order form mutually agreed upon by Kronos and Customer setting forth the items ordered by Customer and to be provided by Kronos, including without limitation the prices and fees to be paid by Customer.

“**Personally Identifiable Data**” means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

“**Production Environment**” means the environment established for Customer's daily use of the Applications in a live environment throughout the Term.

“**Renewal Term**” means the renewal billing term of the Cloud Services as indicated on the Order Form.

“**SLA(s)**” means a service level agreement offered by Kronos for the Production Environment and attached to this Section C as **Exhibit A** which contains key service level standards and commitments that apply to the Kronos Private Cloud.

“**SLA Credit**” means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages or interruptions in the delivery of the Cloud Services that result in a failure to meet the terms of the applicable SLA.

“**Supplier**” means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Cloud Services. Kronos may at its sole discretion replace a Supplier, provided that a change to Supplier will not have a materially adverse effect on the Cloud Services delivered by Kronos under this Agreement.

“**Temporary Environment**” means a transient, non-production environment created to serve limited purposes for a limited time period, and identified on the applicable Order Form as a Temporary Environment.

“**Term**” means the Initial Term and any Renewal Terms.

2. CLOUD SERVICES AND TERM

2.1 During the Term, Kronos will provide the Cloud Services for the Applications. Unless the Order Form indicates that the Applications are to be implemented in a Temporary Environment, the Applications will be deemed to be implemented in a Production Environment.

2.2 Billing for the Cloud Services commences on the Billing Start Date, and continues for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term and each Renewal Term as applicable, the Cloud Services shall automatically renew for an additional Renewal Term until either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current Term.

2.3 Kronos may suspend or terminate the Cloud Services upon notice in the event of any breach by Customer of this Section C if such breach is not cured within thirty (30) days of the date of Kronos' written notice. No interruption shall be deemed to have occurred during, and no credits shall be owed for, any authorized suspension of the Cloud Services.

2.4 Customer may terminate the Cloud Services by written notice at any time during the term of the Section C if Kronos materially breaches any provision of this Section C, and such default is not cured within thirty (30) days after receipt of written notice from Customer. In the event of such termination by Customer, Customer shall pay Kronos within thirty (30) days all fees then due and owing for the Cloud Services prior to the date of termination.

2.5 Customer may terminate any or all of the Cloud Services for convenience on no less than ninety (90) days prior written notice to Kronos. In the event of termination of any of the Cloud Services by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Cloud Services plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Cloud Services for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the then-current Monthly Services Fees.

2.6 Customer Content shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for no more than fifteen (15) days after expiration or termination of the Agreement for any reason. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and will securely delete all Customer Content without liability of any kind.

2.7 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, or files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to provide adequate assurances, in the requesting party's reasonable discretion, within ten (10) days of delivery of the request shall entitle the requesting party to terminate the Agreement immediately upon written notice to the other party.

3. CLOUD SERVICES, FEES AND PAYMENT

3.1 In consideration of the delivery of the Cloud Services, Customer shall pay Kronos the Monthly Services Fee for such Cloud Services as defined in the applicable Order Form. The Monthly Services Fee shall commence on the Billing Start Date and will be invoiced on the "Billing Frequency" indicated on the Order Form. When billed annually in advance, Kronos will invoice Customer an amount equal to twelve (12) months of the Monthly Services Fees for the Cloud Services annually in advance for each year during the Term commencing on the Billing Start Date. The Billing Start Date for the Monthly Service Fees for any Cloud Services ordered by Customer after the date of this Agreement which are incremental to Customer's then-existing Cloud Services shall be the date the applicable Order Form is executed by Kronos and Customer.

3.2 All fees payable for the Cloud Services shall be sent to the attention of Kronos as specified on the invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Customer is responsible for all applicable federal, state, country, provincial or local taxes relating to the Cloud Services (including without limitation GST and/or VAT if applicable), excluding taxes based on Kronos' income or business privilege. Customer may be required to purchase additional Cloud Services to address infrastructure requirements as released by Kronos for a new version of a particular Application.

3.3 If any amount owing under this or any other agreement for Cloud Services is thirty (30) or more days overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Cloud Services until such amounts are paid in full. Kronos will provide at least seven (7) days' prior written notice that Customer's account is overdue before suspending Cloud Services.

3.4 At the commencement of each Renewal Term, Kronos may increase the Monthly Service Fee rates in an amount not to exceed four percent (4%). The increased Monthly Service Fees will be reflected in the invoice following the effective date of such increase without additional notice. Customer may be required to purchase additional Cloud Services to address increased infrastructure requirements for a new version of a particular Application as released by Kronos. Any additional Cloud Services will be set forth on an Order Form to be mutually agreed upon by Customer and Kronos.

4. ACCEPTABLE USE

4.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Cloud Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Agreement. Customer is responsible for all activities undertaken under the auspices of its passwords and other login credentials to use the Cloud Services.

4.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in connection with the Cloud Services. Customer represents and warrants to Kronos that the Customer Content will comply with the Acceptable Use Policy.

4.3 Customer will not (a) use, or allow the use of, the Cloud Services in contravention of the Acceptable Use Policy.

4.4 Kronos may suspend the Cloud Services immediately upon written notice in the event of any security risk, negative impact on infrastructure or Acceptable Use Policy violation.

5. MAINTENANCE

Monthly Service Fees are in addition to the fees Customer pays for annual maintenance and support under the License Agreement. Customer must maintain the Software under an active maintenance plan with Kronos throughout the Term. If Kronos, its Suppliers,

or the local access provider, as applicable, requires access to Customer sites in order to maintain or repair access to the Kronos Private Cloud, Customer shall cooperate in a timely manner and reasonably provide such access and assistance as necessary.

6. CUSTOMER CONTENT

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Customer will ensure that all Customer Content conforms with the terms of this Agreement and applicable law. Kronos and its Suppliers may, but shall have no obligation to, access and monitor Customer Content from time to time to provide the Cloud Services and to ensure compliance with this Agreement and applicable law. Customer is solely responsible for any claims related to Customer Content and for properly handling and processing notices that are sent to Customer regarding Customer Content.

7. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Kronos Private Cloud (including any and all related hardware, software, third party services and related equipment and components required for access); and (b) provide Kronos and Kronos' representatives with physical or remote access to Customer's computer and network environment as mutually agreed upon may be reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement.

8. indemnification

8.1 Customer shall defend Kronos, its Suppliers and their respective directors, officers, employees, agents and independent contractors (collectively, the "**Kronos Indemnified Parties**") harmless, from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party (each a "**Claim**") alleging that: (a) employment-related claims arising out of Customer's configuration of the Cloud Services; (b) Customer's modification or combination of the Cloud Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person. Customer will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Kronos will cooperate fully at Customer's expense with Customer in the defense, settlement or compromise of any such action. Customer will indemnify and hold harmless the Kronos Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claims by a court of applicable jurisdiction or as a result of Customer's settlement of such a Claim.

8.2 The Kronos Indemnified Party(ies) shall provide written notice to the indemnifying party promptly after receiving notice of such Claim. If the defense of such Claim is materially prejudiced by a delay in providing such notice, the purported indemnifying party shall be relieved from providing such indemnity to the extent of the delay's impact on the defense. The indemnifying party shall have sole control of the defense of any indemnified Claim and all negotiations for its settlement or compromise, provided that such indemnifying party shall not enter into any settlement which imposes any obligations or restrictions on the applicable Indemnified Parties without the prior written consent of the other party. The Indemnified Parties shall cooperate fully, at the indemnifying party's request and expense, with the indemnifying party in the defense, settlement or compromise of any such action. The indemnified party may retain its own counsel at its own expense, subject to the indemnifying party's rights above.

9. SERVICE LEVEL AGREEMENT

Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit A and which is hereby incorporated herein by reference. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE OR INTERRUPTION OF THE CLOUD SERVICES OR FAILURE BY KRONOS TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT A.

10. LIMITATION OF LIABILITY

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE LICENSE AGREEMENT, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL CLOUD SERVICES (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

11. DATA SECURITY

11.1 As part of the Cloud Services, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: <http://www.kronos.com/products/workforce-central-cloud/cloud-guidelines.aspx>

Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Agreement.

11.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to

Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under the Agreement or as required by law.

11.3 Prior to initiation of the Cloud Services and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Cloud Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

EXHIBIT A OF SECTION C

SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Applications, in a production environment, are provided with the service levels described in this Exhibit A. SLAs are only applicable to production environments. SLAs will be available upon Customer's signature of Kronos' Go Live Acceptance Form for Customer's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100 and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Customer in Customer's production environment hosted by Kronos and end when Kronos has restored availability of the Applications. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Customer to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Customer's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Customer is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Customer Content, failures or malfunctions resulting from circuits provided by Customer, any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (c) Force Majeure events; (d) expected downtime during the Maintenance Periods described below; (e) any suspension of the Cloud Services in accordance with the terms of the Agreement to which this Exhibit A is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the Documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Cloud Services, when downtime may be necessary, as further described below. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously maintains the production environment on a 24x7 basis to reduce disruptions.

Customer Specific Maintenance Period

- Customer will choose one of the following time zones for their Maintenance Period:
 - United States Eastern Standard Time,
 - GMT/UTC,
 - Central European Time (CET) or
 - Australian Eastern Standard Time (AEST).
- Customer will choose one of the following days of the week for their Maintenance Period: Saturday, Sunday, Wednesday or Thursday.
- Kronos will use up to six (6) hours in any two (2) consecutive rolling months (specifically: January and February; March and April; May and June; July and August; September and October; November and December) to perform Customer Specific Maintenance, excluding any customer requested Application updates. Downtime in excess of these six (6) hours will be deemed to be an Outage.
- Customer Specific Maintenance will occur between 12am-6am during Customer's selected time zone.
- Excluding any customer requested Application updates, Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least seven (7) days in advance of any known downtime so planning can be facilitated by Customer.

6. Customer Specific Maintenance Windows also include additional maintenance windows mutually agreed upon by Customer and Kronos.
7. In absence of instruction from Customer, Kronos will by default perform Maintenance in the time zone where the Data Center is located.

Non-Customer Specific Maintenance Period

Kronos anticipates non-Customer Specific Maintenance to be performed with no or little (less than three hours per month) Customer downtime. If for any reason non-Customer Specific Maintenance requires downtime, Kronos will provide as much notice as reasonably possible of the expected window in which this will occur. Downtime in excess of three (3) hours per month for Non-Customer Specific Maintenance will be deemed to be an Outage.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Cloud Services are unavailable as the result of an Outage.

Reporting and Claims Process: Service Credits will not be provided if: (a) Customer is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Kronos does not provide the appropriate Service Credit as due hereunder, Customer must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which the Service Credit accrues. Customer waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Customer can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer's utilization of the Cloud Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Cloud Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION D
KRONOS WORKFORCE CENTRAL - SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS

Customer and Kronos agree that the terms and conditions set forth in this Section D shall apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on a Kronos Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the Kronos infrastructure hosting such Applications.

1. DEFINITIONS

"Acceptable Use Policy" means the Kronos policy describing prohibited uses of the Services as further described at: <https://www.kronos.com/policies/acceptable-use>

"Agreement" means the terms and conditions of Section D and the Order Form(s).

"Application(s)" or **"SaaS Application(s)"** means those Kronos software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Agreement.

"Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form. Notwithstanding, Implementation Services provided on a time and material basis are billed monthly as delivered. The Billing Start Date of the Monthly Service Fees for any Services ordered by Customer after the date of this Agreement which are incremental to Customer's then-existing Services shall be the date the applicable Order Form is executed by Kronos and Customer.

"Cloud Services" means those services related to Customer's cloud environment as further described at: <http://www.kronos.com/products/workforce-central-cloud/cloud-guidelines.aspx>

"Customer Content" means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Services.

"Documentation" means technical publications published by Kronos relating to the use of the Services or Applications.

"Equipment" means the Kronos equipment specified on an Order Form.

"Implementation Services" means those professional and educational services provided by Kronos to set up the cloud environment and configure the Applications. Unless otherwise set forth on an Order Form as "a la carte" services (supplemental fixed fee, fixed scope services) or "bill as you go" services (time and material services described in a Statement of Work), Kronos will provide, as part of the Monthly Service Fee for the Applications, the fixed fee, fixed scope Implementation Services described in the Services Implementation Detail set forth at: www.kronos.com/products/workforce-central-saas/implementation-guidelines.aspx. Implementation Services may also be provided as set forth in Section B.

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"KnowledgePass Content"/"KnowledgePass Education Subscription" have the meanings ascribed in Section 7.5.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications and the Services, Cloud Services as applicable, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Kronos and Customer setting forth the items ordered by Customer and to be provided by Kronos and the fees to be paid by Customer.

"Personally Identifiable Data" means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

"Renewal Term" means the renewal term of the Services as indicated on the Order Form.

"Services" means (i) the Cloud Services, (ii) accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, and all such services, items and offerings accessed by Customer therein, and (ii) the Equipment rented hereunder, if any.

"Statement of Work", "SOW", "Services Scope Statement" and **"SSS"** are interchangeable terms referring to a written description of the Implementation Services mutually agreed upon by Kronos and Customer and set forth as "bill as you go" services on the Order Form.

"Supplier" means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

"Training Points" has the meaning ascribed to it in Section 7.6 below.

2. TERM

2.1 Billing for the Services commences on the Billing Start Date, and continues for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term and each Renewal Term as applicable, the Services shall automatically renew each year for an additional Renewal Term until terminated in accordance with the provisions hereof.

2.2 Customer may terminate the Services and this Agreement for convenience upon sixty (60) days prior written notice subject to Customer's payment for services performed. Kronos may terminate the Services and this Agreement to be effective at the expiration of the then current Term upon no less than sixty (60) days prior written notice.

2.3 Either party may terminate the Services and the Agreement upon a material breach of the Agreement by the other party if such breach is not cured within fifteen (15) days after receipt of written notice.

2.4 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, or files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to provide adequate assurances, in the requesting party's reasonable discretion, within ten (10) days of delivery of the request shall entitle the requesting party to terminate the Agreement immediately upon written notice to the other party.

2.5 If the Agreement is terminated for any reason:

(a) Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued and unpaid under this Agreement prior to the effective date of such termination, provided however, if Customer terminates for material breach of the Agreement by Kronos, Kronos shall refund Customer any pre-paid fees for Services not delivered by Kronos;

(b) Customer's right to access and use the Applications shall be revoked and be of no further force or effect and return rented Equipment as provided in Section 9.1 below;

(c) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, destroy such materials and provide Kronos with an officer's certification of the destruction thereof; and

(d) All provisions in the Agreement, which by their nature are intended to survive termination, shall so survive.

2.6 Customer Content shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for no more than fifteen (15) days after expiration or termination of the Agreement for any reason. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and will securely delete all Customer Content without liability of any kind.

3. FEES AND PAYMENT

3.1 Customer shall pay Kronos the Monthly Service Fees, the fees for the Implementation Services and any additional one time or recurring fees for Equipment, Training Points, KnowledgePass Education Subscription and such other Kronos offerings, all as set forth on the Order Form. The Monthly Service Fees will be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). If Customer and Kronos have signed a Statement of Work for the Implementation Services, Implementation Services will be invoiced monthly as delivered unless otherwise indicated on the Order Form. If Kronos is providing Implementation Services in accordance with the Services Implementation Guideline or as "a la carte" services on the Order Form, Kronos will invoice Customer for Implementation Services in advance of providing such Implementation Services unless otherwise indicated on the Order Form. All other Kronos offerings will be invoiced upon execution of the applicable Order Form by Kronos and Customer. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. All payments shall be sent to the attention of Kronos as specified on the invoice. Except as expressly set forth in this Agreement, all amounts paid to Kronos are non-refundable. Customer is responsible for all applicable federal, state, country, provincial or local taxes relating to the goods and services provided by Kronos hereunder (including without limitation GST and/or VAT if applicable), excluding taxes based on Kronos' income or business privilege.

3.2 If any amount owing under this or any other agreement between the parties is thirty (30) or more days overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Services until such amounts are paid in full. Kronos will provide at least seven (7) days' prior written notice that Customer's account is overdue before suspending Services.

3.3 At the latest of (i) one (1) year after the effective date of this Agreement, or (ii) expiration of the Initial Term, and at each annual anniversary of that date thereafter, Kronos may increase the Monthly Service Fee rates in an amount not to exceed four percent (4%). The increased Monthly Service Fees will be reflected in the monthly invoice following the effective date of such increase without additional notice.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Agreement, Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Customer shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license agreement found at http://www.redhat.com/licenses/jboss_eula.html Customer acknowledges that execution of separate third party agreements may be required in order for Customer to use certain add-on features or functionality, including without limitation tax filing services.

4.2 Customer acknowledges and agrees that the right to use the Applications is limited based upon the amount of the Monthly Service Fees paid by Customer. Customer agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Customer agrees not to use any other modules or features nor increase the number of employees and users unless Customer pays for such additional modules, features, employees or users, as the case may be. Customer may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder.

4.3 Customer may authorize its third party contractors and consultants to access the Services through Customer's administrative access privileges on an as needed basis, provided Customer: a) abides by its obligations to protect Confidential Information as set forth in this Agreement; b) remains responsible for all such third party usage and compliance with the Agreement; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

4.4 Customer acknowledges and agrees that, as between Customer and Kronos, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein and under any other agreement in writing with Customer, Customer shall not obtain or claim any rights in or ownership interest to the Services or Applications or any associated intellectual property rights in any of the foregoing. Customer agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Customer through the Services.

4.5 When using and applying the information generated by the Services, Customer is responsible for ensuring that Customer complies with applicable laws and regulations. If the Services include the Workforce Payroll Applications or Workforce Absence Management Applications: (i) Customer is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using these Applications, (ii) using these Applications does not release Customer of any professional obligation concerning the preparation and review of any reports and documents, (iii) Customer does not rely upon Kronos, Best Software, Inc. or these Applications for any advice or guidance regarding compliance with federal and state laws or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Customer will review any calculations made by using these Applications and satisfy itself that those calculations are correct.

5. ACCEPTABLE USE

5.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Agreement. Customer is responsible for all activities undertaken under the auspices of its passwords and other login credentials to use the Services.

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in connection with the Services. Customer represents and warrants to Kronos that the Customer Content will comply with the Acceptable Use Policy.

5.3 Customer will not (a) use, or allow the use of, the Services in contravention of the Acceptable Use Policy.

5.4 Kronos may suspend the Services immediately upon written notice in the event of any security risk, negative impact on infrastructure or Acceptable Use Policy violation.

6. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Kronos will provide the Implementation Services to Customer. Implementation Services described in a SOW are provided on a time and materials basis, billed monthly as delivered unless otherwise indicated on the Order Form. Implementation Services described in the Services Implementation Guideline are provided on a fixed fee basis. If Customer requests additional Implementation Services beyond those described in the Services Implementation Guideline, Kronos will create a change order for Customer's review and approval and any additional Implementation Services to be provided by Kronos will be billed as delivered at the then-current Kronos professional services rates. Kronos' configuration of the Applications will be based on information and work flows that Kronos obtains from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. In the event that Kronos is required to travel to Customer's location during the implementation, travel expenses shall be set forth in accordance with Section 6 Exhibit A. Kronos shall invoice Customer for such travel expenses and payment thereof shall be due net thirty (30) days from date of invoice.

7.2 Additional Services. Customer may engage Kronos to provide other services which may be fixed by activity ("a la carte") or provided on a time and materials basis ("bill as you go") as indicated on the applicable Order Form.

7.3 Support. Kronos will provide 24x7 support for the cloud infrastructure, the availability to the cloud environment, and telephone support for the logging of functional problems and user problems. Customer may log questions online via the Kronos Customer Portal. As part of such support, Kronos will make updates to the Services available to Customer at no charge as such updates are released generally to Kronos' customers. Customer agrees that Kronos may install critical security patches and infrastructure updates automatically as part of the Services. Kronos' then-current Support Services Policies shall apply to all Support Services provided by Kronos and may be accessed at: <http://www.kronos.com/Support/SupportServicesPolicies.htm> ("Support Policies"). In the event of a conflict between the Support Policies and this Agreement, the terms of this Agreement shall prevail.

7.4 Support Services for Equipment. Provided Customer has purchased support services for the Equipment, the following terms shall apply (Depot Exchange support services for rented Equipment are included in the rental fees for such Equipment):

(a) Customer may select, as indicated on an Order Form, an Equipment Support Services option offered by the local Kronos entity responsible for supporting the Equipment if and as such offerings are available within the Kronos territory corresponding to the Equipment's location. Kronos shall provide each Equipment Support Services offering as specified herein.

(i) **Depot Exchange and Depot Repair.** If Customer has selected Depot Exchange or Depot Repair Equipment Support Services, the following provisions shall apply: Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and are subject to change. Return and repair procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies. Service packs for the Equipment (as described in subsection (ii) below) are included in both Depot Exchange and Depot Repair Support Services.

Depot Exchange: Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Customer's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Customer, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

Depot Repair: Upon failure of installed Equipment, Customer shall install a Spare Product (as defined below) to replace the failed Equipment. Customer shall then return the failed Equipment, with the required RMA, to the applicable Kronos Depot Repair Center. Customer shall make reasonable efforts to return the failed Equipment using the same or substantially similar packing materials in which the original Equipment was sent. Customer shall also specify the address to which the repaired Equipment should be return shipped. Upon receipt of the failed Equipment, Kronos shall repair the failed Equipment and ship it, within ten (10) business days after receipt, to Customer. Kronos shall ship the repaired Equipment by regular surface transportation to Customer.

(ii) **Device Software Updates Only.** If Customer has selected Device Software Equipment Support Services, Customer shall be entitled to receive:

(A) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal. Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos.; and

(B) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment.

(b) **Warranty.** Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

(c) **Responsibilities of Customer.** It is Customer's responsibility to purchase and retain, at Customer's location and at Customer's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Customer to replace failed Equipment at Customer's locations in order for Customer to continue its operations while repairs are being performed and replacement Equipment is being shipped to Customer. For each of the Depot Exchange and Depot Repair Equipment Support Services options, Customer agrees that it shall return failed Equipment promptly as the failures occur and that it shall not hold failed Equipment and send failed Equipment to Kronos in "batches" which shall result in a longer turnaround time to Customer. In addition, Customer agrees to:

(i) Maintain the Equipment in an environment conforming to the Kronos published specifications for such Equipment;

(ii) Not perform self-repairs on the Equipment (i.e., replacing components) without prior written authorization from Kronos;

(iii) De-install all failed Equipment and install all replacement Equipment in accordance with Kronos' written installation guidelines;

(iv) Ensure that the Equipment is returned to Kronos properly packaged; and

(v) Obtain an RMA before returning any Equipment to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Equipment authorized by Kronos when issuing the RMA.

(d) **Delivery.** All domestic shipments within the United States are FOB Destination to/from Customer and Kronos with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination. All international shipments from Kronos to Customer are DAP (Incoterms 2010) to the applicable Customer location, and are DDP (Incoterms 2010) to the applicable Kronos Depot Repair Center when Customer is shipping to Kronos. Customer is responsible for all duties and taxes when sending Equipment to Kronos.

7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is purchased on an Order Form, Kronos will provide Customer with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Kronos (the "KnowledgePass Content"). Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in *pdf form solely for Customer's internal use. Customer may not disclose such KnowledgePass Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of training kits solely for Customer's internal use.

7.6 Training Points. "Training Points" which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

7.7 Training Courses. When Training Points or training sessions are set forth in an SSS, the SSS applies. When Training Points or training sessions are not set forth in an SSS, as part of the Services, for each SaaS application module included in the Services purchased by Customer, Customer's employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at: www.kronos.com/products/workforce-central-saas/training-guidelines.aspx Participation in such training courses is limited to the number of seats indicated for the courses corresponding to the modules forming a part of the Services purchased by Customer.

7.8 Technical Account Manager. Customers purchasing a Kronos Technical Account Manager ("TAM") as indicated on the Order Form shall receive the services of a dedicated, but not exclusive, TAM for one production instance of the Software. Customer will designate up to two primary and three secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM. Upon request, Customer may designate additional and/or backup Technical Contacts. Customer is required to place all primary Technical Contacts through Kronos training for the Applications covered under this Agreement at Customer's expense.

8. Customer content

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with the Agreement and applicable law.

9. EQUIPMENT

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Customer will ensure that all Customer Content conforms with the terms of this Agreement and applicable law. Kronos and its Suppliers may, but shall have no obligation to, access and monitor Customer Content from time to time to provide the Services and to ensure compliance with this Agreement and applicable law. Customer is solely responsible for any claims related to Customer Content and for properly handling and processing notices that are sent to Customer regarding Customer Content.

9.1 Rented Equipment. The following terms apply only to Equipment Customer rents from Kronos:

- a) **Rental Term and Warranty Period.** The term of the Equipment rental and the "Warranty Period" for such Equipment shall run coterminously with the Term of the other Services provided under the Agreement.
- b) **Insurance.** Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from Customer's obligations under the Agreement.
- c) **Location/Replacement.** Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) **Ownership.** All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
- e) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in Section 7.
- f) **Return of Equipment.** Upon termination of the Agreement or the applicable Order Form, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment subject to this Section 9.1. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from Kronos, Customer shall pay Kronos the then list price of the unreturned Equipment.

9.2 Purchased Equipment. The following terms apply only to Equipment Customer purchases from Kronos:

- a) **Ownership and Warranty Period.** Title to the Equipment shall pass to Customer upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).

b) Equipment Support. Kronos shall provide to Customer the Equipment support services described in this Agreement if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services will be automatically extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), unless either party has given the other thirty (30) days written notification of its intent not to renew. Kronos may change the annual support charges for Equipment support services effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification.

10. SERVICE LEVEL AGREEMENT

Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit D-1 and which is hereby incorporated herein by reference. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE or INTERRUPTION OF the SERVICES OR FAILURE BY KRONOS TO MEET THE TERMS OF the APPLICABLE service level agreement, SHALL BE THE REMEDIES PROVIDED IN exhibit D-1.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Kronos represents and warrants to Customer that the Applications, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

11.2 Kronos' sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Agreement as Customer's sole and exclusive remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

11.3 Kronos warrants to Customer that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Customer's sole and exclusive remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) in the event of:

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

Except as provided for in this Section 11, Kronos hereby disclaims all warranties, conditions, guaranties and representations relating to the Services, express or implied, oral or in writing, including without limitation the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and whether or not arising through a course of dealing. The Services are not guaranteed to be error-free or uninterrupted. Except as specifically provided in this Agreement, Kronos makes no warranties or representations concerning the compatibility of the Services, the SaaS Applications or the Equipment nor any results to be achieved therefrom.

12.0 DATA SECURITY

12.1 As part of the Services, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: <http://www.kronos.com/products/workforce-central-cloud/cloud-guidelines.aspx>

Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Agreement.

12.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under the Agreement or as required by law.

12.3 Prior to initiation of the Services under the Agreement and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. INDEMNIFICATION

13.1 Kronos shall defend Customer and its respective directors, officers, and employees (collectively, the "Customer Indemnified Parties"), from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third

party (each a "Claim") alleging that the permitted uses of the Services infringe or misappropriate any United States or Canadian copyright or patent and will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claim by a court of applicable jurisdiction or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of such copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in the Agreement, (b) replace or modify the Services so that the Services become non-infringing but remain substantively similar to the affected Services, and if neither (a) or (b) is commercially feasible, to (c) terminate the Agreement and the rights granted hereunder after provision of a refund to Customer of the Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

13.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with the Documentation for such Service or as authorized by the Agreement; (c) use of the Services in conjunction with any data, equipment, service or software not provided by Kronos, where the Services would not otherwise itself be infringing or the subject of the claim; or (d) use of the Services by Customer other than in accordance with the terms of the Agreement. Notwithstanding the foregoing, with regard to infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such infringement claims, provided that Kronos or Kronos' Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor.

13.3 Customer shall be responsible and liable for all damages and cost of Kronos, its Suppliers and their respective directors, officers, employees, agents and independent contractors any and all Claims alleging that: (a) employment-related claims arising out of Customer's configuration of the Services; (b) Customer's modification or combination of the Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person.

13.4 The Indemnified Party(ies) shall provide written notice to the indemnifying party promptly after receiving notice of such Claim. If the defense of such Claim is materially prejudiced by a delay in providing such notice, the purported indemnifying party shall be relieved from providing such indemnity to the extent of the delay's impact on the defense. The indemnifying party shall have sole control of the defense of any indemnified Claim and all negotiations for its settlement or compromise, provided that such indemnifying party shall not enter into any settlement which imposes any obligations or restrictions on the applicable Indemnified Parties without the prior written consent of the other party. The Indemnified Parties shall cooperate fully, at the indemnifying party's request and expense, with the indemnifying party in the defense, settlement or compromise of any such action. The indemnified party may retain its own counsel at its own expense, subject to the indemnifying party's rights above.

14. LIMITATION OF LIABILITY

14.1 Except as specifically provided in this agreement, Kronos and its Suppliers will not be liable for any damages or injuries caused by the use of the services or by any errors, delays, interruptions in transmission, or failures of the Services.

14.2 Except for Kronos' indemnification obligations set forth in Section 13 above, the total aggregate liability of Kronos or Kronos' suppliers to Customer and/or any third party in connection with the Agreement shall be limited to direct damages proven by Customer, such direct damages not to exceed an amount equal to the total net payments received by Kronos for the Services in the twelve (12) month period immediately preceding the date in which such claim arises.

14.3 except for Kronos' indemnification obligations set forth in Section 13 above, in no event shall Kronos or Kronos' suppliers, their respective affiliates, service providers, or agents be liable to Customer or any third party for any incidental, special, punitive, consequential or other indirect damages or for any lost or imputed profits or revenues, lost data or cost of procurement of substitute services resulting from delays, nondeliveries, misdeliveries or services interruption, however caused, arising from or related to the Services or the Agreement, regardless of the legal theory under which such liability is asserted, whether breach of warranty, indemnification, negligence, strict liability or otherwise, and whether liability is asserted in contract, tort or otherwise, and regardless of whether Kronos or Supplier has been advised of the possibility of any such liability, loss or damage.

14.4 Except with respect to liability arising from Kronos' gross negligence or willful misconduct, Kronos disclaims any and all liability, including without limitation liability related to a breach of data security and confidentiality obligations, resulting from any externally introduced harmful program (including without limitation viruses, trojan horses, and worms), Customer's Content or applications, third party unauthorized access of Equipment, SaaS Applications or systems, or machine error.

EXHIBIT D-1

SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment, are provided with the service levels described in this Exhibit A. SLAs are only applicable to production environments. SLAs will be available upon Customer's signature of Kronos' Go Live Acceptance Form for Customer's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Customer in Customer's production environment hosted by Kronos and end when Kronos has restored availability of the Applications. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Customer to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Customer's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Customer is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Customer Content, failures or malfunctions resulting from circuits provided by Customer, any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (c) Force Majeure events; (d) expected downtime during the Maintenance Periods described below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit A is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the Documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when downtime may be necessary, as further described below. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously maintains the production environment on a 24x7 basis to reduce disruptions.

Customer Specific Maintenance Period

1. Customer will choose one of the following time zones for their Maintenance Period:
 - a. United States Eastern Standard Time,
 - b. GMT/UTC,
 - c. Central European Time (CET) or
 - d. Australian Eastern Standard Time (AEST).
2. Customer will choose one of the following days of the week for their Maintenance Period: Saturday, Sunday, Wednesday or Thursday.
3. Kronos will use up to six (6) hours in any two (2) consecutive rolling months (specifically: January and February; March and April; May and June; July and August; September and October; November and December) to perform Customer Specific Maintenance, excluding any customer requested Application updates. Downtime in excess of these six (6) hours will be deemed to be an Outage.
4. Customer Specific Maintenance will occur between 12am-6am during Customer's selected time zone.
5. Excluding any customer requested Application updates, Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least seven (7) days in advance of any known downtime so planning can be facilitated by Customer.
6. Customer Specific Maintenance Windows also include additional maintenance windows mutually agreed upon by Customer and Kronos.

7. In absence of instruction from Customer, Kronos will by default perform Maintenance in the time zone where the Data Center is located.

Non-Customer Specific Maintenance Period

Kronos anticipates non-Customer Specific Maintenance to be performed with no or little (less than three hours per month) Customer downtime. If for any reason non-Customer Specific Maintenance requires downtime, Kronos will provide as much notice as reasonably possible of the expected window in which this will occur. Downtime in excess of three (3) hours per month for Non-Customer Specific Maintenance will be deemed to be an Outage.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Reporting and Claims Process: Service Credits will not be provided if: (a) Customer is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event.

Kronos will provide Customer with an Application Availability report on a monthly basis for each prior calendar month. Within sixty (60) days of receipt of such report, Customer must request the applicable Service Credit by written notice to Kronos. Customer waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Customer can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer's utilization of the Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION E
KRONOS ADDENDUM
WORKFORCE TELESTAFF IVR SERVICE
(Licensed or User based)

The parties hereby agree that the following terms and conditions are supplemental terms and conditions to the Agreement and are applicable to the Workforce Telestaff IVR service ("Workforce Telestaff IVR"), a service of Aspect Software Inc., which Kronos is authorized to resell. The Workforce Telestaff IVR service can be ordered either on a licensed basis (in which case Workforce Telestaff IVR is only available with a perpetual license to Workforce Telestaff and is not hosted by Kronos) ("Workforce Telestaff IVR License Per Port") or on a per minute basis ("Workforce Telestaff IVR Service"). The applicable designation for Workforce Telestaff IVR will be indicated on the applicable Order Form..

Description. Workforce Telestaff IVR is an Interactive Voice Response (IVR) solution, provided solely for Customer's internal use, by which Customer may initiate phone calls to staff members to fill vacancies or receive notifications of work opportunities for employees who are licensed to use the Kronos Workforce TeleStaff® product. Each exchanged message (notice, response, confirmation, denial) shall be considered an "Interaction."

Maintenance. Workforce Telestaff IVR maintenance will entitle Customer to Workforce Telestaff IVR phone support and software updates and shall commence upon Order execution. For Usage Based Workforce Telestaff IVR, maintenance will be provided at the same level of support as Customer's Workforce TeleStaff product at no additional charge. For Workforce Telestaff IVR License Per Port, Customer must purchase maintenance for both Workforce TeleStaff and Workforce Telestaff IVR License Per Port, and maintenance for Workforce Telestaff IVR License Per Port will be charged at the same level of support as Workforce TeleStaff (i.e., Gold or Platinum).

Implementation. To initiate and setup administration of the required communications, Kronos will perform the standard implementation of Workforce Telestaff IVR, including configuration, as described in the Statement of Work ("SOW") signed by the Customer. Any additional professional services for non-standard implementation services will be provided at mutually agreed upon rates subject to a separate Order Form or a separate statement of work mutually agreed upon by both parties.

Payment. Kronos will invoice Customer for the Workforce Telestaff IVR implementation/configuration professional services fees set forth in the applicable SOW and Order Form, pursuant to the Agreement and on the payment terms set forth therein. Kronos will invoice Customer as follows: (i) for the license fees and annual maintenance associated with the Licensed Based Workforce Telestaff IVR as indicated on the Order Form; or (ii) each month in arrears for the Usage Based Workforce Telestaff IVR usage fees for the total actual number of metered minutes used each month (the "Minute Usage Fee") at a rate of \$0.13 per minute. Customer's right to begin using the service shall begin upon activation of the service after implementation/configuration.

Customer will pay invoices issued by Kronos hereunder within thirty (30) days of receipt.

Restrictions on Workforce Telestaff IVR Services; Additional Responsibilities. Customer agrees that Workforce Telestaff IVR has not been designed for, and may not be used as, a means to connect with 911 or E911 emergency services. Kronos shall have no liability for any delays, failures or unavailability of Workforce Telestaff IVR due to transmission or other delays, errors or problems beyond Kronos' control, or any other interruptions caused by the mobile communications network and/or mobile devices. Use of Workforce Telestaff IVR is subject to the software license terms set forth in the Agreement as well as the Acceptable Use Policy found at: <https://www.aspect.com/acceptable-use-policy> and Customer agrees that it shall be liable for all loss, damage or injury that may result from Customer's failure to abide by such Policy. Customer acknowledges that communications occurring through Workforce Telestaff IVR may be subject to standard mobile carrier policies or government regulatory requirements for mobile communications.

Workforce Telestaff IVR Security. The Workforce Telestaff IVR service relies upon a third party hosted communication platform. Accordingly, notwithstanding any other provision of the Agreement or this Addendum to the contrary, Customer understands and acknowledges that the exclusive statement of the security protections provided for i) Interactions by Customer and its employees through Workforce Telestaff IVR, and ii) all associated data, is found at: <https://www.aspect.com/privacy-policy>, under the heading "Information Security."

Renewal and Termination. The initial Term is twelve months. At the expiration of the initial Term, the Term shall automatically renew on a month-to-month basis until terminated in accordance with the provisions hereof. At any time: (i) Customer may terminate the Workforce Telestaff IVR service for convenience upon thirty (30) days prior written notice, and (ii) Kronos may terminate the Workforce Telestaff IVR service for convenience upon one hundred and twenty (120) days prior written notice. Kronos may increase the per minute rate upon renewal with sixty (60) days prior written notice for use based Workforce Telestaff IVR.

SECTION F
WFC Extensions for Healthcare Terms and Conditions
to
Section D (Workforce Central Software as a Services Terms and Conditions)

This WFC Extensions for Healthcare addendum of supplemental terms and conditions (the "**Section F**") is entered into by and between Kronos and Customer and shall supplement the Agreement. Capitalized terms not otherwise defined herein shall have the meanings prescribed to them in the Agreement.

WHEREAS, Kronos and Customer entered into an agreement governing the provision of Kronos' Workforce Central Software as a Service in Section D offering (the "**SaaS Agreement**") pursuant to which Customer acquires Cloud Services for certain Applications to be used by Customer in the "**Kronos Private Cloud**" or "**KPC**;

WHEREAS, Customer desires to acquire from Kronos the Extensions for Healthcare Application(s) (i.e., Workload Manager for Healthcare; Target Intelligence for Healthcare; and/or Forecast Manager for Healthcare, as such Applications set may be updated from time to time) (collectively, the "**Extension Applications**") to be used and managed in Kronos Private Cloud and in accordance with this Section F Terms and Conditions and Section D, SaaS Agreement;

WHEREAS, Kronos agrees to host and manage the Extension Applications in the Kronos Private Cloud for the benefit of Customer and in accordance with this Section F and the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereafter set forth, the parties agree as follows:

Customer and Kronos agree that the terms and conditions set forth herein shall only apply to the Extension Applications in Kronos' Private Cloud, and the services related thereto. The Extension Applications described on the Order Form shall be delivered by means of Customer's permitted access to the Kronos Private Cloud. Notwithstanding any provision in the Agreement or any prior Statement of Work signed by the parties for the Cloud Services to the contrary, the terms and conditions of this Section F shall apply to the Extension Applications hosted by Kronos in the Kronos Private Cloud. In the event of a conflict or inconsistency between the Agreement and this Section F, and only as it pertains to the Extension Applications, the provisions of this Section F shall prevail.

1. DEFINITIONS

"**Agreement**" means the underlying agreement including the SaaS Terms and Conditions set forth in Section D and to which this Section F shall apply.

"**Business Associate Agreement**" or "**BAA**" means the Business Associate Agreement attached hereto as Section H.

"**Client Partnership Services**" means those services provided pursuant to Section 4, below.

"**Cloud Services**" means those services described in Section I, the "Cloud Services for Extension Applications".

"**Encrypt**" or "**Encryption**" means to cryptographically protect data using methods such as symmetric encryption algorithm, asymmetric encryption algorithm or a one-way hashing algorithm.

"**HIPAA**" means the Health Insurance Portability & Accountability Act of 1996, P.L. 104-191, as amended from time to time, together with its implementing regulations promulgated under HIPAA and under the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 ("ARRA"), by the U.S. Department of Health and Human Services, including, but not limited to, the Privacy Rule, the Security Rule and the Breach Notification Rule, as amended from time to time.

"**PHI**" means Protected Health Information as defined by HIPAA. PHI shall be deemed to be Personally Identifiable Data under the Agreement.

"**Solution**" means the combination and use of the Extension Applications working with the Encryption Gateway Tool.

2. KRONOS CLOUD ENCRYPTION GATEWAY

a. As part of acquiring the Extension Applications pursuant to this Section F, Kronos licenses to Customer the right to use the Kronos Cloud Encryption Gateway tool ("**Encryption Gateway Tool**"). The Encryption Gateway Tool will Encrypt PHI before it is transmitted to the Kronos Private Cloud and it will un-Encrypt the PHI when it is extracted from the Kronos Private Cloud in accordance with the encryption product documentation.

b. Kronos will deliver the Encryption Gateway Tool by giving Customer access to the secure Customer portal and such tool shall be available for download and to be installed by Customer, on Customer's server and behind its firewall at its location. The Encryption Gateway Tool will at all times be under Customer's control and Customer shall install updates to the Encryption Gateway Tool, when such updates are made available by Kronos. The Encryption Gateway Tool is licensed to Customer concurrently with the Extension Application(s) and upon termination or expiration of the Extension Application(s), Customer's right to use the Encryption Gateway Tool shall also terminate. Customer agrees to uninstall the Encryption Gateway Tool upon termination of Customer's right to use of the Extension Applications.

- c. As part of the Services for the Extension Applications, Customer is entitled to receive the Support Services detailed in Section D.
- d. The Application Availability SLA of the Agreement shall not apply to the Encryption Gateway Tool which is installed on Customer's server at Customer's control.

3. CUSTOMER RESPONSIBILITIES

Customer agrees to:

- a. install, maintain and use the Encryption Gateway Tool as part of the cloud hosting services for the Extension Applications in accordance with the product documentation. Customer acknowledges that its failure to immediately apply updates to the Encryption Gateway Tool when such updates become available may: (i) compromise the security of Customer Content, including, Personally Identifiable Data and PHI; and (ii) result in incompatibility between the Healthcare Extensions and the Encryption Gateway Tool, which could cause failures in Encrypting and un-Encrypting data, and affect the scope of the Services provided by Kronos and its ability to adhere with its compliance programs, including those verified by the independent auditor report (i.e., SOC reports). Customer acknowledges Kronos shall not provide any credits for SLA issues under the Agreement that resulted from Customer's failure to update the Encryption Gateway Tool.
- b. install and maintain the encryption gateway private key per the encryption product documentation, and not share the encryption gateway private key with any third party who does not have a need to know, including not sharing the encryption gateway private key with Kronos. Should Customer lose the key, any encrypted data will remain encrypted.
- c. enter and maintain PHI only in the fields defined in the Extension Applications product documentation; and to only send PHI data (e.g., screen shots containing PHI) to Kronos by means of secure support channels for such data.
- d. use unique user ID and passwords for all users of Extension Applications
- e. configure Extension Application user's account to meet Customer's HIPAA policy requirements for complexity, length duration and lockout.
- f. determine user access/authorization to the application level of the Solution and assure that the level of access and the user assigned roles and permission are appropriate, which includes periodic application level logical access review.
- g. review application logs to meet Customer's HIPAA compliance program.
- h. immediately notify Kronos in the event Customer discovers a security issue with the Solution.
- i. provide Kronos resources with application level accounts as reasonably needed to support the Extension Applications, and not unreasonably withhold such access.

4. CLIENT PARTNERSHIP SERVICES

If acquired by Customer on the applicable Order Form, the parties agree that the following terms shall apply to Customer's purchase of Client Partnership Services only:

- a. Scope. Client Partnership Services will provide to Customer additional support services to develop performance improvement for clients utilizing the Extension Applications. This service includes a dedicated Strategic Client Advisor (the "Advisor") that works with the Customer to guide the Customer in optimizing the use of the Extension Applications. The Advisor will also provide consultation services which may include, but is not limited to, developing supporting processes, staff engagement and accountability structures, service plan development in response to Customer's business requirements, as well as serving as a resource link to assist Customers in networking with other Kronos customer's healthcare organizations.
- b. Term. Client Partnership Services shall be for a term of one (1) year and shall renew for additional one (1) year terms provided Customer renews the Client Partnership Services as provided below.
- c. Payment: Customer shall pay the annual Client Partnership Services charges for the initial term in accordance with the payment terms on the Order Form as executed by Customer. Kronos will send Customer a renewal invoice for renewal of the Client Partnership Services at least forty five (45) days prior to expiration of the then current term. Client Partnership Services shall renew for an additional one (1) year term if Customer pays such invoice before the end of the initial term or any renewal term.
- d. Change to Offerings; Support Increases: After the one year initial term, the Client Partnership Services offerings provided and the service coverage period are subject to change by Kronos with sixty (60) days advance written notice. For the initial two (2) renewal terms from the date of the Addendum, the annual Client Partnership Services fee, for the same service type, is subject to increase by not more than four percent (4%) over the prior year's annual Client Partnership Services fee.

5. BUSINESS ASSOCIATE AGREEMENT

The parties agree that the provisions of the Business Associate Agreement referenced as **Section H** shall apply.

6. DATA SECURITY

As part of the Services for the Extension Applications, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described in **Section I** herein.

SECTION G

WFC Extensions for Healthcare Terms and Conditions to Section C / Section C-1 (Hosting Terms and Conditions)

This WFC Extensions for Healthcare addendum of supplemental terms and conditions ("**Section G**") is entered into by and between Kronos and Customer and shall supplement the Agreement. Capitalized terms not otherwise defined herein shall have the meanings prescribed to them in the Agreement.

WHEREAS, Kronos and Customer entered into an agreement to have Kronos host the Workforce Central Software in its managed cloud environment in Section C/Section C-1 (the "**Kronos Private Cloud**" or "**KPC**") and to allow Customer to use such software in the Kronos Private Cloud;

WHEREAS, Customer desires to acquire from Kronos the Extensions for Healthcare Application(s) (i.e., Workload Manager for Healthcare; Target Intelligence for Healthcare; and/or Forecast Manager for Healthcare, as such Application set may be updated from time to time) (collectively, the "**Extension Applications**") to be used and managed in the Kronos Private Cloud and in accordance with this Section G terms and conditions and Section C / Section C-1;

WHEREAS, Kronos agrees to host and manage the Extension Applications in the Kronos Private Cloud for the benefit of Customer and in accordance with this Section G and the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereafter set forth, the parties agree as follows:

Customer and Kronos agree that the terms and conditions set forth herein shall only apply to the Extension Applications in Kronos' Private Cloud, and the services related thereto. The Extension Applications described on the Order Form shall be delivered by means of Customer's permitted access to the Kronos Private Cloud. Notwithstanding any provision in the Agreement or any prior Statement of Work signed by the parties for the Cloud Services to the contrary, the terms and conditions of this Section G shall apply to the Extension Applications hosted by Kronos in the Kronos Private Cloud. In the event of a conflict or inconsistency between the Agreement and this Section G, and only as it pertains to the Extension Applications, the provisions of this Section G shall prevail.

1. DEFINITIONS

"**Agreement**" means the underlying agreement including the Cloud Hosting Terms and Conditions set forth in Section C/Section C-1, as applicable, and to which this Section G shall apply.

"**Business Associate Agreement**" or "**BAA**" means the Business Associate Agreement attached Section H.

"**Client Partnership Services**" means those services provided pursuant to Section 4, below.

"**Cloud Services**" means those services described in Section I, the "Cloud Services for Extension Applications".

"**Encrypt**" or "**Encryption**" means to cryptographically protect data using methods such as symmetric encryption algorithm, asymmetric encryption algorithm or a one-way hashing algorithm.

"**HIPAA**" means the Health Insurance Portability & Accountability Act of 1996, P.L. 104-191, as amended from time to time, together with its implementing regulations promulgated under HIPAA and under the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 ("ARRA"), by the U.S. Department of Health and Human Services, including, but not limited to, the Privacy Rule, the Security Rule and the Breach Notification Rule, as amended from time to time.

"**PHI**" means Protected Health Information as defined by HIPAA. PHI shall be deemed to be Personally Identifiable Data under the Agreement.

"**Solution**" means the combination and use of the Extension Applications working with the Encryption Gateway Tool.

7. KRONOS CLOUD ENCRYPTION GATEWAY

a. As part of acquiring the Extension Applications pursuant to this Section G, Kronos licenses to Customer the right to use the Kronos Cloud Encryption Gateway tool ("**Encryption Gateway Tool**"). The Encryption Gateway Tool will Encrypt PHI before it is transmitted to the Kronos Private Cloud and it will un-Encrypt the PHI when it is extracted from the Kronos Private Cloud in accordance with the encryption product documentation.

b. Kronos will deliver the Encryption Gateway Tool by giving Customer access to the secure Customer portal and such tool shall be available for download and to be installed by Customer, on Customer's server and behind its firewall at its location. The Encryption Gateway Tool will at all times be under Customer's control and Customer shall install updates to the Encryption

Gateway Tool, when such updates are made available by Kronos. The Encryption Gateway Tool is licensed to Customer concurrently with the Extension Application(s) and upon termination or expiration of the license to use the Extension Application(s) or termination or expiration of Software Support maintenance, Customer's right to use the Encryption Gateway Tool shall also terminate.

c. Customer is entitled to receive the Support Services detailed in Section C/Section C-1.

d. The Application Availability SLA of the Agreement shall not apply to the Encryption Gateway Tool which is installed on Customer's server at Customer's control.

8. CUSTOMER RESPONSIBILITIES

Customer agrees to:

a. install, maintain and use the Encryption Gateway Tool as part of the cloud hosting services for the Extension Applications in accordance with the product documentation. Customer acknowledges that its failure to immediately apply updates to the Encryption Gateway Tool when such updates become available may: (i) compromise the security of Customer Content, including, Personally Identifiable Data and PHI; and (ii) result in incompatibility between the Healthcare Extensions and the Encryption Gateway Tool, which could cause failures in Encrypting and un-Encrypting data, and affect the scope of the Hosting Related or Cloud Services provided by Kronos and its ability to adhere with its compliance programs, including those verified by the independent auditor report (i.e., SOC reports). Customer acknowledges Kronos shall not provide any credits for SLA issues under the Agreement that resulted from Customer's failure to update the Encryption Gateway Tool.

b. install and maintain the encryption gateway private key per the encryption product documentation, and not share the encryption gateway private key with any third party who does not have a need to know, including not sharing the encryption gateway private key with Kronos. Should Customer lose the key, any encrypted data will remain encrypted.

c. enter and maintain PHI only in the fields defined in the Extension Applications product documentation; and to only send PHI data (e.g., screen shots containing PHI) to Kronos by means of secure support channels for such data.

d. use unique user ID and passwords for all users of Extension Applications

e. configure Extension Application user's account to meet Customer's HIPAA policy requirements for complexity, length duration and lockout.

f. determine user access/authorization to the application level of the Solution and assure that the level of access and the user assigned roles and permission are appropriate, which includes periodic application level logical access review.

g. review application logs to meet Customer's HIPAA compliance program.

h. immediately notify Kronos in the event Customer discovers a security issue with the Solution.

i. provide Kronos resources with application level accounts as reasonably needed to support the Extension Applications, and not unreasonably withhold such access.

9. CLIENT PARTNERSHIP SERVICES

If acquired by Customer on the applicable Order Form, the parties agree that the following terms shall apply to Customer's purchase of Client Partnership Services only:

a. Scope. Client Partnership Services will provide to Customer additional support services to develop performance improvement for clients utilizing the Extension Applications. This service includes a dedicated Strategic Client Advisor (the "Advisor") that works with the Customer to guide the Customer in optimizing the use of the Extension Applications. The Advisor will also provide consultation services which may include, but is not limited to, developing supporting processes, staff engagement and accountability structures, service plan development in response to Customer's business requirements, as well as serving as a resource link to assist Customers in networking with other Kronos customer's healthcare organizations.

b. Term. Client Partnership Services shall be for a term of one (1) year and shall renew for additional one (1) year terms provided Customer renews the Client Partnership Services as provided below.

c. Payment: Customer shall pay the annual Client Partnership Services charges for the initial term in accordance with the payment terms on the Order Form as executed by Customer. Kronos will send Customer a renewal invoice for renewal of the Client Partnership Services at least forty five (45) days prior to expiration of the then current term. Client Partnership Services shall renew for an additional one (1) year term if Customer pays such invoice before the end of the initial term or any renewal term.

d. Change to Offerings; Support Increases: After the one year initial term, the Client Partnership Services offerings provided and the service coverage period are subject to change by Kronos with sixty (60) days advance written notice. For the initial two (2) renewal terms from the date of the Addendum, the annual Client Partnership Services fee, for the same service type, is subject to increase by not more than four percent (4%) over the prior year's annual Client Partnership Services fee.

10. BUSINESS ASSOCIATE AGREEMENT

The parties agree that the provisions of the Business Associate Agreement attached hereto and incorporated herein by reference as **Section H** shall apply

11. DATA SECURITY

As part of the Services for the Extension Applications, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described in **Section I** herein.

SECTION H
BUSINESS ASSOCIATE AGREEMENT

RECITALS

WHEREAS, Customer (hereinafter "Covered Entity") has entered into an agreement with Kronos (hereinafter "Business Associate") governing the provision of Kronos' Workforce Central Software provided by Business Associate to Covered Entity in accordance with the Underlying Agreement;

WHEREAS, Business Associate may perform certain services to support Business Associate's software licenses for or on behalf of Covered Entity, and in performing said services, Business Associate may receive, maintain, or transmit Protected Health Information ("PHI");

WHEREAS, Covered Entity is a "Covered Entity" as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, ("**HIPAA**"), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services ("**Secretary**"), including, without limitation, the regulations codified at 45 C.F.R. Parts 160 and 164 ("**HIPAA Regulations**");

WHEREAS, the Parties intend to protect the privacy and provide for the security of PHI disclosed by Covered Entity to Business Associate, or received by Business Associate, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) ("the HITECH Act") and its implementing regulations and guidance issued by the Secretary, and other applicable state and federal laws, all as amended from time to time; and

WHEREAS, as a Covered Entity, Covered Entity is required under HIPAA to enter into a Business Associate Agreement ("BAA") with Business Associate that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

AGREEMENT

NOW WHEREFORE, in consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

The following terms shall have the meaning set forth below. Capitalized terms used in this BAA and not otherwise defined shall have the meanings ascribed to them in HIPAA, the HIPAA Regulations, or the HITECH Act, as applicable.

- 1.1. "**Breach**" shall have the meaning given under [42 U.S.C. § 17921\(1\)](#) and [45 C.F.R. § 164.402](#).
- 1.2. "**Designated Record Set**" shall have the meaning given such term under [45 C.F.R. § 164.501](#).
- 1.3. "**Disclose**" and "**Disclosure**" mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate or to other than members of its Workforce, as set forth in [45 C.F.R. § 160.103](#).
- 1.4. "**Electronic PHI**" or "**e-PHI**" means PHI that is transmitted or maintained in electronic media, as set forth in [45 C.F.R. § 160.103](#).
- 1.5. "**Protected Health Information**" and "**PHI**" mean any information, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. § 160.103. Protected Health Information includes e-PHI.
- 1.6. "**Security Incident**" means a confirmed successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system which affects Covered Entity's PHI or e-PHI in possession and/or control of Business Associate. Security Incident shall exclude (i) "pings" on an information system firewall; (ii) port scans; (iii) attempts to log on to an information system or enter a database with an invalid password or user name; (iv) denial-of-service attacks that do not result in a server being taken offline; or (v) "malware" (e.g., a worm or a virus) that does not result in unauthorized access, use, disclosure, modification or destruction of PHI.
- 1.7. "**Services**" shall mean the services provided to Covered Entity by Business Associate pursuant to the Underlying Agreement.
- 1.8. "**Unsecured PHI**" shall have the meaning given to such term under [42 U.S.C. § 17932\(h\)](#), [45 C.F.R. § 164.402](#), and guidance issued pursuant to the HITECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

1.9. **“Use” or “Uses”** mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate’s internal operations, as set forth in [45 C.F.R. § 160.103](#).

1.10. **“Workforce”** shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

2. OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 **Permitted Uses and Disclosures of Protected Health Information.** Business Associate shall not Use or Disclose PHI other than as permitted or required by any Underlying Agreement, this BAA, or as Required by Law. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of Subpart E of 45 C.F.R. Part 164 if so Used or Disclosed by Covered Entity. However, Business Associate may Use or Disclose PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any such Disclosure either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached; (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity. To the extent that Business Associate carries out one or more of Covered Entity’s obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

2.2 **Prohibited Marketing and Sale of PHI.** Notwithstanding any other provision in this BAA, Business Associate shall comply with the following requirements: (i) Business Associate shall not Use or Disclose PHI for fundraising or marketing purposes, except to the extent expressly authorized or permitted by any Underlying Agreement and consistent with the requirements of 42 U.S.C. § 17936, 45 C.F.R. §§ 164.514(f), and 164.508(a)(3)(ii), and (ii) Business Associate shall not directly or indirectly receive remuneration in exchange for PHI except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. § 17935(d)(2), and 45 C.F.R. § 164.502(a)(5)(ii); however this prohibition shall not affect payment by Covered Entity to Business Associate for the provision of Services pursuant to any Underlying Agreement.

2.3 **Adequate Safeguards of PHI.** Business Associate shall implement and maintain reasonably appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate shall reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it receives, maintains or transmits on behalf of Covered Entity in compliance with Subpart C of 45 C.F.R. Part 164 to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.4 **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA.

2.5 **Reporting Non-Permitted Use or Disclosure.**

2.5.1 **Reporting Security Incidents and Non-Permitted Use or Disclosure.** Business Associate shall report to Covered Entity in writing each confirmed Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, or Subcontractors that is not specifically permitted by this BAA no later than ten (10) business days after confirming such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity’s PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI. Business Associate shall document and retain records of its investigation of any Breach, including its reports to Covered Entity under this Section 2.5.1. Upon written request by Covered Entity, Business Associate shall furnish to Covered Entity the documentation of its investigation and an assessment of whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach. If such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.5.2 below.

2.5.2 **Breach of Unsecured PHI.** If Business Associate determines that a reportable Breach of Unsecured PHI has occurred, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than thirty (30) calendar days after discovery of the Breach. To the extent that information is available to Business Associate, Business Associate’s written report to Covered Entity shall be in accordance with 45 C.F.R. §164.410(c). Business Associate shall reasonably cooperate with Covered Entity in meeting Covered Entity’s obligations under the HITECH Act with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media, as required by the HITECH Act.

2.6 **Availability of Internal Practices, Books, and Records to Government.** Business Associate agrees to make its internal policies, books and records relating to the Use and Disclosure of PHI received from, or received by the Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity’s compliance with HIPAA, the HIPAA Regulations, and the HITECH Act. Except to the extent prohibited by law, Business Associate shall notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary.

2.7 **Access to and Amendment of Protected Health Information.** To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) business days of a written request by Covered Entity, Business Associate shall (a) make the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets available to Covered Entity for inspection and copying to fulfill its obligations under 45 C.F.R. § 164.524, or (b) permit Covered Entity

to amend the PHI Business Associate maintains (or which is maintained by Business Associate's Subcontractors) in Designated Record Sets to enable the Covered Entity to fulfill its obligations under 45 C.F.R. § 164.526. In the event that an individual makes a direct request to Business Associate to amend any PHI of such individual maintained in a Designated Record Set on behalf of Covered Entity, Business Associate shall promptly forward such individual's request to Covered Entity for review. Business Associate shall not Disclose PHI to a health plan for payment or Health Care Operations purposes except as otherwise directed by Covered Entity or required by law. If Business Associate maintains PHI in a Designated Record Set electronically, Business Associate shall provide such information in the electronic form and format requested by the Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format as commercially reasonable and available to enable Covered Entity to fulfill its obligations under 42 U.S.C. § 17935(e) and 45 C.F.R. § 164.524(c)(2). Business Associate shall notify Covered Entity within fifteen (15) business days of receipt of a request for access to PHI.

2.8 **Accounting.** To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity, within thirty (30) days of receipt of a request from Covered Entity or an individual for an accounting of disclosures of PHI, Business Associate and its Subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.528 and its obligations under 42 U.S.C. § 17935(c). Business Associate shall notify Covered Entity within fifteen (15) business days of receipt of a request by an individual or other requesting party for an accounting of disclosures of PHI.

2.9 **Use of Subcontractors.** Business Associate shall require each of its Subcontractors, if any, that maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such Subcontractors the same, or substantially similar, restrictions, conditions, and requirements that apply to Business Associate under this BAA with respect to PHI.

2.10 **Minimum Necessary.** Business Associate (and its Subcontractors) shall, to the extent practicable, limits its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

3. COVERED ENTITIES RESPONSIBILITIES

Covered Entity Responsibilities. With respect to the use and disclosure of the PHI by Business Associate, Covered Entity agrees to: (a) inform Business Associate of any change in or revocation of any authorization provided to Covered Entity by Individuals pursuant to applicable law, including, but not limited to, the HIPAA Statute and which is applicable to Business Associate; and (b) to timely notify Business Associate, in writing, of any arrangement permitted or required of Covered Entity under applicable law, including, but not limited to, the HIPAA Statute, that may impact in any manner the use, disclosure, or access to PHI by Business Associate under the Agreement, including, but not limited to, any agreement by Covered Entity to restrict use or disclosure of any PHI as permitted by the HIPAA Statute.

4. TERM AND TERMINATION

4.1 **Term.** Subject to the provisions of Section 4.2 herein, the term of this BAA shall be the term of the Underlying Agreement.

4.2 **Termination for Cause.** In addition to and notwithstanding the termination provisions set forth in any Underlying Agreement, upon Covered Entity's knowledge of a material breach or violation of this BAA by Business Associate, Covered Entity shall either:

a. Notify Business Associate of the breach in writing, and provide an opportunity for Business Associate to cure the breach or end the violation within fifteen (15) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period, Covered Entity may immediately terminate this BAA and any Underlying Agreement upon written notice to Business Associate; or

b. Upon written notice to Business Associate, immediately terminate this BAA and any Underlying Agreement if Covered Entity determines that such breach cannot be cured

4.3 **Disposition of Protected Health Information Upon Termination or Expiration.**

4.3.1 Upon termination or expiration of this BAA, Business Associate shall either return or destroy all PHI received from, or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, PHI shall be returned in a format utilized at the time of termination and timeframe, at no additional charge to Covered Entity.

4.3.2 If return or destruction is not feasible, Business Associate shall (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains the PHI; (d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions set out in Section 2.1 and 2.2 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

5. MISCELLANEOUS

5.1 **Amendment to Comply with Law.** The parties agree to enter into an amendment to this BAA to incorporate any mandatory obligations of Covered Entity or Business Associate under the HITECH Act and its implementing HIPAA Regulations, as applicable, and as mutually agreed between the parties. Additionally, the Parties agree to take such action as is reasonably necessary to amend this BAA from time to time for Covered Entity to implement its obligations pursuant to HIPAA, the HIPAA Regulations, or the HITECH Act, and to the extent mutually acceptable to the parties.

5.2 **Relationship to Underlying Agreement Provisions.** Except as otherwise specifically stated in this BAA, in the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA shall control. Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement, subject to Section 5.3 below.

5.3 **Entire Agreement.** This BAA supplements and is entered into subject to the Underlying Agreement, and constitutes the entire agreement between the Parties for the services described herein and supersedes all prior or contemporaneous representations, negotiations, or other communications between the Parties relating to the subject matter of this BAA. Any provisions in the Underlying Agreement regarding limitations or exclusion of liability or indemnification will apply to any of the rights and obligations of the parties under this BAA or breach thereof. This BAA supersedes and replaces any existing Business Associate Agreement in effect between Business Associate and Covered Entity. Any PHI received from Covered Entity prior to, on, or after the date of this Agreement is subject to the terms and conditions of this Agreement.

5.4 **Notices.** Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this Agreement, or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 5.4. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

5.5 **Relationship of Parties.** Notwithstanding anything to the contrary in any Underlying Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate obligations under this BAA.

SECTION I

Cloud Services for Extension Applications Applicable to Sections F and G Only

Cloud Offering	
<p>Environments:</p> <p>One standard Production and one Non-Production (Development) environment.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	<p>Included. More non-production environments are available for additional fees.</p>
<p>Environment restoration:</p> <p>Restore of Production environment to one Non-Production environment once per week.</p> <p>Customer is responsible for requesting data to be moved from the Production environment to the Non-Production environment and for the contents of the data moved from the Production environment to the Non-Production environment.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	<p>Included. More frequent restores or additional environments will be subject to additional time and material fees.</p>
<p>Connectivity to Service:</p> <p>Customer's users connect to application via secure TLS connection over the internet. Cooperative efforts with customer IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for customer internet connection or ISP relationships. Kronos related Internet traffic cannot be filtered by proxy or caching devices on the client network. Exclusions must be added for the fully qualified domain names and public IP addresses assigned to the environments in the Kronos Cloud. Applicable ports must be opened from customer network as described in product documentation.</p>	<p>Included</p>
<p>Operating System and Database Software Management: Includes application of critical security patches, service packs and hot-fixes; maintenance of servers.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	<p>Included</p>
<p>Server Maintenance: Repair and replacement of defective or failed hardware and the installation of hardware upgrades.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	<p>Included</p>
<p>Application Updates: Services to perform technical tasks required to apply application service packs, legislative updates (if applicable), point releases and version upgrades.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	<p>Included</p>

Cloud Offering	
<p>Backup:</p> <p>Customer data is backed up daily. Database backups are replicated via encrypted connections to a second Kronos Cloud datacenter. Backups are retained for the prior 28 days on a rotating basis. All historical employee and configuration data is stored in the rotating backups.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	Included
<p>Security:</p> <p>Kronos maintains a hosting environment that undergoes examinations from an independent auditor in accordance with the American Institute of Certified Public Accounts (AICPA) Trust Services Principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e. SOC 2). The Kronos Private Cloud (KPC) is evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The Kronos Private Cloud is located in data centers that undergo SSAE 16 examinations. Management access to the KPC is limited to authorized Kronos support staff and customer authorized integrations. The security architecture has been designed to control appropriate logical access to the KPC to meet the Trust Services Principles of Security, Availability and Confidentiality. The Applications provide the customer with the ability to configure application security and logical access per the customer's business processes. Additionally the independent auditor will provide an opinion on the design and operating effectiveness of controls to meet the security requirements of the Health Insurance Portability and Accountability Act Security Rule, which will be first issued by end of calendar year 2016.</p> <p>In the event the customer identifies a security issue, the customer will notify Kronos. For security purposes, customers are restricted from accessing the desktop, file systems, databases and operating system of the environments.</p> <p>Customer agrees not to upload payment card information as the service is not certified for PCI DSS.</p> <p>For each of the customer's production and non-production environments in a data center in the United States of America, Customer Content will be Encrypted at rest at the storage level for the Extension Application(s). Encryption at rest is defined as Customer Content is made unreadable on disk via encryption technology when the Kronos Cloud computing environment hardware is powered off. For clarity this storage level of Encryption within the Kronos Private Cloud is independent of the Encryption at the Encryption Gateway Tool located at the customer's location, thus providing a second layer of encryption at rest.</p>	Included
<p>Basic Disaster Recovery Services:</p> <p>Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud data center. Basic Disaster Recovery Services provides a Recovery Point Objective (RPO) of 24 hours and Kronos strives to restore Application Availability in a commercially reasonable timeframe.</p> <p>The customer will be down until production processing is restored in the primary or secondary data center if needed. No application environment is readily available at the alternate site to process data. Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change.</p> <p>Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve.</p>	Included

Cloud Offering	
Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.	
<p>Enhanced Disaster Recovery Services:</p> <p>Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud datacenter. Enhanced Disaster Recovery Services provide an RTO (Recovery Time Objective) of 72 hours and a RPO (Recovery Point Objective) of 24 hours.</p> <p>In the unlikely event that Kronos declares a disaster in the primary datacenter, Kronos will notify the customer and activate the Disaster Recovery steps necessary to restore application availability within the RTO defined.</p> <p>As part of the enhanced service, Kronos will conduct an annual Disaster Recovery Process test which has the objectives to 1) test backups 2) train Kronos employees 3) verify and improve internal Kronos procedures. The annual Disaster Recovery Process test may be live or simulated test.</p> <p>Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change. Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve.</p> <p>Excludes encryption gateway software running at a location in customer's control outside of Kronos Cloud.</p>	If purchased on Order Form

Guidelines and Assumptions:

Category	Assumption
	Estimated availability of production server hardware in Kronos Cloud is approximately 30 days after the Order Form is processed.
	Customer agrees to receive automatic updates to the Applications.
	Applications will support English only.
	Customer agrees not to conduct security testing, which includes but is not limited to penetration testing and vulnerability scanning.
	Customer agrees not conduct any sort of automated or manual performance testing of the Service.

Category	Assumption
	Retention policies must be configured in the Application(s). Setting retention policies will ensure that unnecessary system data (e.g. temp files, deleted records, empty rows, etc.) is routinely purged from the system and will help in managing database growth. Additionally application audit log will retained for 30 days.
	Customer will be required to sign a go live milestone document confirming customer has completed its testing and is ready to go live with the Workforce Central Application EHC module(s).

Workforce Central EHC Upgrade Services

The Service includes services for Kronos to execute tasks to apply point releases and version upgrades to customer's Kronos Applications in the Kronos Cloud. Services are limited to those tasks which apply these updates to the Applications. Services related to upgrade of Encryption Gateway Environment and encryption gateway software running at a location in customer's control outside of Kronos Cloud are not included.

The table below reflects the included upgrade tasks.

Planning Phase	
Customer/ Kronos Introduction Call – up to 30 minutes	Included
Technical readiness & architecture review – Kronos Cloud Environment	Included
Technical readiness & architecture review – Encryption Gateway environment	Not Included
Assessment Phase	
Assessment of Interface Upgrade to WFC	Included
Assessment of new features or changes to configuration	Not included
Assessment of customs, custom interfaces and custom reports and development activities related thereto	Not included
Solution Upgrade / Build Phase	
One (1) restore of Production database to Pre-Production environment for the purpose of upgrade testing. Additional restores, if requested, shall be subject to additional time and material fees.	Included

Upgrade Non-Production and Production environments to new point release or version.	Included
Upgrade of interface integration to Workforce Central per features in product documentation.	Included
Upgrade of integrations beyond integration to Workforce Central per features in product documentation.	Not Included
Upgrade of any customs, custom interfaces and custom reports and development activities related thereto	Not Included
Configuration of new features or functionality or changes to existing configuration	Available for Purchase
Upgrade of Encryption Gateway Environment and encryption gateway software running at a location in customer's control outside of Kronos Cloud.	Not Included
Test & Certify Phase	
User acceptance testing (UAT) of upgraded environments, interfaces, custom reports, new features, etc.	Not Included
Develop customer-specific test cases	Not Included
Sign-off on upgraded Non-Production and Production Environments	Customer
Deploy & Support Phase	
Deployment Readiness Call – up to 30 minutes	Included

Note that new feature configuration, project management services, other Professional, Managed and Educational Services and training are not included as part of Upgrade Services, but may be purchased independently, if desired.

If not specifically noted, the customer should assume responsibility of the task and/or deliverable.

SECTION J

CLIENT PARTNERSHIP SERVICES SUPPLEMENTAL TERMS AND CONDITIONS

(For Healthcare Customers only)

This Client Partnership Services Supplemental Terms and Conditions apply to the Client Partnership Services purchased by Customer set forth in the applicable Order Form.

Customer has purchase software licenses and/or acquire software services, as well as related equipment, professional, educational and training services and support maintenance services (collectively, the "Products") under Section A and B of the Agreement;

WHEREAS, Customer desires to purchase the Client Partnership Services set forth in the applicable Order Form, as executed by Customer;

WHEREAS, Customer acknowledges that the purchase and use of the Client Partnership Services shall be subject to the Agreement, as modified and supplemented by this Section K.

WHEREAS, the Parties agree that the terms and conditions of this Section K shall apply only to the Client Partnership Services as identified on the Order Form executed by the Parties, and this Section K shall not affect the rights or use of such other Kronos software modules or applications (i.e., the Kronos Workforce software suite of products) acquired by Customer under the other section of the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereafter set forth herein, the Parties agree as follows:

1. Client Partnership Services for Kronos Software.

If purchased by Customer on the applicable Order Form, the parties agree that the following terms shall apply to Customer's purchase of Client Partnership Services only and shall supplement the Software Support Services offered by Kronos under Section B:

- (a) **Scope.** Kronos Client Partnership Services will provide to Customer's organization an additional set of support services to develop performance improvement for those customers using the Kronos software. This service includes a dedicated Strategic Client Advisor (the "Advisor") who works closely with the Customer to guide the Customer in optimizing the use of the Software. The Advisor will be the Customer's link to Kronos' broad industry practice, support tools and knowledge base. The Advisor will also provide consultation services which include, but are not limited to, developing supporting processes, staff engagement and accountability structures, service plan development in response to Customer's business requirements, as well as serving as a resource link to assist Customers in networking with other Kronos healthcare organizations;
- (b) **Term.** Client Partnership Services shall be for a term of one (1) year and shall renew for additional one (1) year terms provided Customer renews the Client Partnership Services as provided below;
- (c) **Payment:** Customer shall pay the annual Client Partnership Services charges for the initial term in accordance with the payment terms on the Order Form as executed by Customer. Kronos will send Customer a renewal invoice for renewal of the Client Partnership Services at least forty-five (45) days prior to expiration of the then current term. Client Partnership Services shall renew for an additional one (1) year term if Customer pays such invoice before the end of the initial term or any renewal term and;
- (d) **Change to Offerings; Support Increases:** Client Partnership Services are offered under Kronos Software Support offerings and after the one year initial term of this Addendum, the Client Partnership Service offerings provided and the service coverage period are subject to change by Kronos.

SECTION K WORKFORCE DIMENSIONS™ AGREEMENT

Customer and Kronos agree that the terms and conditions set forth in this Section K apply to Kronos' Workforce Dimensions software as a service and other related offerings specified on a Kronos Order Form.

This Section K includes the following exhibits, which are incorporated by reference, and which form an integral part of this contract:

- Exhibit K-A: Attachment A-1: Equipment Purchase, Rental, and Support
Attachment A-2: Professional and Educational Services Policies
Attachment A-3: Service Level Agreement
- Exhibit K-B: Workforce Dimensions Cloud Guidelines:
www.kronos.com/workforce-dimensions/agreement/exhibitb
- Exhibit K-C: Customer Success
Attachment C-1: Customer Success Plans
Attachment C-2: Support Policies
- Exhibit K-D: Acceptable Use Policy (AUP):
www.kronos.com/workforce-dimensions/agreement/exhibitd
- Exhibit K-E: AtomSphere Service and Boomi Software
Attachment E-1: Boomi Flow Down Provisions

The description of the type, quantity, and cost of the specific offerings being ordered by Customer will be described in an Order Form, that will be mutually agreed upon and signed by the Parties pursuant and subject to this Section K. If Implementation Services are to be delivered by Kronos, the Parties may need to execute a Statement of Work, which will set forth the scope, objectives and other business terms of the Implementation Services ordered with the Order Form.

Definitions

“Acceptable Use Policy” and **“AUP”** are interchangeable terms referring to the Kronos policy describing prohibited uses of the Service as further described in Exhibit D.

“Aggregated Data” is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by Kronos in response to specified queries for a set point in time; including without limitation aggregation, metrics, trend data, correlations, benchmarking, determining best practices, the number and types of transactions, configurations, records, reports processed in the Service, and the performance results for the Service Agreement.

“Applicable Law(s)” means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders which govern the Party's respective business.

“Authorized User” means any individual or entity that directly (or through another Authorized User) accesses or uses the Service with any login credentials or passwords Customer uses to access the Service.

“Application(s)” means those Kronos Workforce Dimensions software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Agreement.

“Boomi AtomSphere Service” means the third-party service for the creation of integrations by Customer as further described in Exhibit E, which the Customer and Customer’s Authorized Users have the right to access through the Service.

“Boomi Software” means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Exhibit E.

“Claim(s)” means any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party.

“Configuration(s)” means the Customer specific settings of the parameters within the Applications(s), including pay and work rules, security settings such as log-in credentials, passwords, and private keys used to access the Service.

“Controls” means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by Kronos to secure Customer Data against accidental or unlawful loss, access or disclosure consistent with the AICPA Trust Principles Criteria for security, availability, confidentiality and processing integrity (SOC 2).

“Customer Data” means all content Customer, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

“Customer Success Plan(s)” means the services provided by Kronos to support and maintain the Service as described in Exhibit C, including but not limited to the Support Plans and the Customer Success Programs.

“Customer Indemnified Party(ies)” means Customer and Customer’s respective directors, officers, and employees.

“Data Protection Law(s)” means all international, federal, state, and local laws, rules, regulations, directives and published governmental or regulatory decisions that specify data privacy, data protection or data security obligations, and which, in each case, have the force of law applicable to a Party’s collection, use, processing, storage, or disclosure of Personally Identifiable Information.

“Documentation” means the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides.

“Equipment” means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form.

“Equipment Support Services” means the maintenance and support services related to Kronos’ support of Equipment as further described in Attachment A-1.

“Feedback” means suggestions, ideas, comments, know how, techniques or other information provided to Kronos for enhancements or improvements, new features or functionality or other feedback with respect to the Service.

“Fees” means the charges to be paid by Customer for a particular item.

“Implementation Services” means those professional and educational services provided by Kronos to set up the cloud environment and to setup the Configurations within the Applications, as set forth in an SOW.

“Kronos Indemnified Party(ies)” means Kronos and its third-party Technology suppliers and each of their respective directors, officers, employees, agents and independent contractors.

“Order Form” means an order form mutually agreed upon by Kronos and Customer setting forth, among other things, the items ordered by Customer and to be provided by Kronos and the Fees to be paid by Customer.

“Party(ies)” means Kronos or Customer, or both of them, as the context dictates.

“PEPM” means the per employee per month fee for a Customer’s Authorized Users access to the Service.

“Personally Identifiable Information” means information concerning individually identifiable employees of Customer that is protected against disclosure under Applicable Data Protection Law.

“Professional Services” means the professional, educational, consulting, or training services provided by Kronos pursuant to an Order Form and which are not described in a Statement of Work.

“Seasonal Licenses” are limited use licenses that have the following attributes: (i) valid only for the four (4) consecutive months during the annual period identified on the Order Form; (ii) valid from the first day of the month in which they commence until the end on the last day of the month in which they expire; and (iii) will be effective automatically each year during the Term, subject to termination and non-renewal as provided in the Agreement.

“Service” means the Kronos supply of the commercially available version of the Workforce Dimensions SaaS Applications in Kronos’ hosted environment and the services described in the section related thereto.

“Statement of Work” and **“SOW”** are interchangeable terms referring to a written description of the Implementation Services.

“Technology” means the intellectual property of Kronos within the Service, including but not limited to the Applications.

“Term” means the Initial Term and any Renewal Terms.

1. Order Forms

1.1 The following commercial terms may appear on an Order Form:

- a. The Application(s) included in the Service, and the other offerings being ordered by Customer
- b. Billing Start Date (i.e., the date the billing of the PEPM Fees commences)
- c. Initial Term (i.e., the initial billing term of the Service commencing on the Billing Start Date)
- d. Renewal Term (i.e., the renewal billing term of the Service)
- e. Billing Frequency (i.e., the frequency for the invoicing of the PEPM Fees such as Annual in Advance or Monthly in Arrears)
 - i. "Annual in Advance" means payment is due on an annual basis with the invoice being issued upon execution of the Order Form.
 - ii. "Monthly in Arrears" means payment is due on a monthly basis with the invoice being issued at the end of the month in which the Service was delivered.
- f. Payment Terms (i.e., the amount of days in which Customer must pay a Kronos invoice)
- g. Shipping Terms (i.e., FOB – Shipping Point, Prepay and Add)

1.2 The following Fees may appear on an Order Form:

- a. PEPM Fees for use of the Service, including PEPM Fees for Seasonal Licenses
- b. Customer Success Fees for Premium and Premium Plus Plans
- c. Implementation Services Fees (The Order Form will note if Implementation Services Fees are included in PEPM Fees.)
- d. Equipment Purchase Fees
- e. Equipment Rental Fees

1.3 Kronos may also sell (or rent) Equipment to Customer, and provide related Equipment Support Services, if included on an Order Form. These offerings are subject to this Agreement and the terms and conditions set forth in Attachment A-1.

2. Billing

2.1 Kronos will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Customer will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Customer will send payment to the attention of Kronos at the address indicated on the applicable invoice unless the Parties have made an alternative payment arrangement (such as credit card, wire transfer, ACH payment or otherwise). Unless expressly provided in this Section K, Customer payments are non-refundable. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 At the expiration of the Initial Term, and at the expiration of each Renewal Term, the Service will automatically renew for a Renewal Term. For each Renewal Term, Kronos may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees, for the same Applications and the same licensed quantity. Kronos will reflect these increased PEPM fees in the applicable invoice for each Renewal Term.

3. Implementation Services and Professional Services

3.1 Implementation Services are described in a SOW that the Parties will sign or reference on a signed Order Form. These SOWs are subject to this Section K. Implementation Services are invoiced monthly

as delivered, except if otherwise indicated on an Order Form. Each Party will perform their respective obligations as outlined in a signed SOW.

3.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, Kronos may also configure the Applications. Kronos will configure the Applications based on Customer's instructions and direction. Customer is solely responsible for ensuring that the Configurations comply with Applicable Law.

3.3 Kronos may also provide Professional Services to Customer that do not require an SOW but which will be as set forth on an Order Form.

3.4 The Kronos policies set forth in Section B shall apply to all Implementation Services and Professional Services provided by Kronos. In the event of a conflict between the Professional Services Policies and this Section K, the terms of this Section K shall prevail.

4. Service Level Agreement

Kronos offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. The SLA Credits are Customer's sole and exclusive remedy in the event of any Outage. Kronos remains obligated to provide the Service as otherwise described in this Section K.

5. Data, Confidentiality, Security and Privacy

Section 5.1 Data

5.1.1 Customer owns Customer Data. Customer is solely responsible for Customer Data, including ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Customer is solely responsible for any Claims that may arise out of or relating to Customer Data.

5.1.2 Kronos owns the Aggregated Data. Nothing in this Agreement will prohibit Kronos from utilizing the Aggregated Data for any purposes, provided that Kronos' use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

Section 5.2 Security and Privacy

5.2.1 Kronos will maintain the Controls throughout the Term.

5.2.2 Each Party will comply with all Applicable Laws, including, without limitation, Data Protection Laws.

5.2.3 Kronos employees will access Customer Data from the locations from which such employees work. Customer consents to Kronos' handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Customer will ensure that Customer Data may be provided to Kronos for the purposes of providing the Service. Customer has obtained all necessary consents from individuals to enable Kronos to use the Customer Data to provide the Service. As may be contemplated by the applicable Data Protection Laws, Customer will remain the "controller" of Customer Data and Kronos will be considered a "processor" of Customer Data.

5.2.4 Kronos will notify Customer in accordance with Applicable Law upon becoming aware of an unauthorized access of Customer Data. To the extent reasonably possible, such a notification will include,

at a minimum (i) a description of the breach, (ii) the information that may have been obtained as a result of the breach, and (iii) the corrective action Kronos is taking in response to the breach.

6. Warranty

Kronos warrants that the Service will be provided in a professional and workmanlike manner. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, KRONOS DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE SERVICE, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If Customer informs Kronos in writing that there is a material deficiency in the Service which is making this warranty untrue, Kronos will use its reasonable commercial efforts to correct the non-conforming Service at no additional charge, and if Kronos is unable to do so within a reasonable period of time, Customer may terminate the then remaining Term, which will be Customer's sole and exclusive remedy. Customer agrees to provide Kronos with reasonable information and assistance to enable Kronos to reproduce or verify the non-conforming aspect of the Service.

7. License

Section 7.1 Technology License

7.1.1 As part of the Service, Kronos will provide Customer access to and use of the Technology, including the Applications. Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use the Service, including the Technology, during the Term and for internal business purposes only. Customer acknowledges and agrees that the right to use the Service, including Seasonal Licenses when included on the Order Form, is limited based upon the number of Authorized Users, and Customer's payment of the corresponding PEPM Fees. Customer agrees to use the Applications only for the number of employees stated on the total of all Order Forms for the applicable Applications. Customer agrees not to use any other Application nor increase the number of employees using an Application unless Customer enters into an additional Order Form that will permit the Customer to have additional Authorized Users.

7.1.2 Kronos owns all title or possesses all intellectual property rights in and to the Technology used in delivering the Service. Customer has a right to use this Technology and to receive the Service subject to this Section K. No other use of the Technology is permitted. Customer is specifically prohibited from reverse engineering, disassembling or decompiling the Technology, or otherwise attempting to derive the source code of the Technology. Customer cannot contact third party licensors or suppliers for direct support of the Technology. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of any third party supplying Technology as part of the Service, is granted hereunder.

8. Scope and Authority

8.1 Authorized Users may access the Service on Customer's behalf, and Customer will be responsible for all actions taken by its Authorized Users. Customer will make sure that Authorized Users comply with Customer's obligations under this Section K. Unless Kronos breaches its obligations under this Section K, Kronos is not responsible for unauthorized access to Customer's account, nor activities undertaken with Customer's login credentials, nor by Customer's Authorized Users. Customer should contact Kronos immediately if Customer believes an unauthorized person is using Customer's account or that Customer's account information has been compromised.

8.4 Use of the Service includes the ability to enter into agreements and/or to make transactions electronically. This feature of the Service is referred to as the “Marketplace”. The use of the Marketplace can be configured, and Customer may disable use of the Marketplace by some or all of its Authorized Users. CUSTOMER ACKNOWLEDGES THAT WHEN AN AUTHORIZED USER INDICATES ACCEPTANCE OF AN AGREEMENT AND/OR TRANSACTION ELECTRONICALLY WITHIN THE MARKETPLACE, THAT ACCEPTANCE WILL CONSTITUTE CUSTOMER’S LEGAL AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. THIS ACKNOWLEDGEMENT THAT CUSTOMER INTENDS TO BE BOUND BY SUCH ELECTRONIC ACCEPTANCE APPLIES TO ALL AGREEMENTS AND TRANSACTIONS CUSTOMER ENTERS INTO THROUGH THE SERVICE, SUCH AS ORDERS, CONTRACTS, STATEMENTS OF WORK, AND NOTICES OF CANCELLATION.

9. Suspension

9.1 Kronos may suspend the Service if any amount that Customer owes Kronos is more than thirty (30) days overdue. Kronos will provide Customer with at least seven (7) days prior written notice that the Customer’s account is overdue before Kronos suspends the Service. Upon payment in full of all overdue amounts, Kronos will immediately restore the Service.

9.2 Customer is responsible for complying with the AUP. Kronos and its third party cloud service provider reserve the right to review Customer’s use of the Service and Customer Data for AUP compliance and enforcement. If Kronos discovers an AUP violation, and Kronos reasonably determines that Kronos must take immediate action to prevent further harm, Kronos may suspend Customer’s use of the Service immediately without notice. Kronos will contact Customer when Kronos suspends the Service to discuss how the violation may be remedied, so that the Service may be restored as soon as possible. If Kronos does not reasonably believe it needs to take immediate action, Kronos will notify Customer of the AUP violation. Even if Kronos doesn’t notify Customer or suspend the Service, Customer remains responsible for any such AUP violation. Kronos will restore the Service once the AUP violation is cured or as both Parties may agree.

10. Termination

Section 10.1. Types of Termination

10.1.1 For Convenience. Customer may terminate the Service and this Section K for convenience upon ninety (90) days prior written notice. Customer may terminate Seasonal Licenses upon at least sixty (60) days prior written notice before the start of a Renewal Term.

10.1.2 Non-renewal. Either Party may terminate the Service upon at least sixty (60) days prior written notice before the start of the Renewal Term.

10.1.3 For Cause. Either Party may terminate the Service and this Section K if the other Party fails to perform any material obligation under this Section K, and such Party is not able to cure the non-performance within thirty (30) days of the date such Party is notified by the other Party of such default.

10.1.4 For Bankruptcy. If either Party: (i) becomes insolvent, (ii) makes a general assignment for the benefit of our creditors, (iii) is adjudicated as bankrupt or insolvent, or (iv) has a proceeding commenced against it under applicable bankruptcy laws, the other Party may ask for a written assurance of future performance of a Party’s obligations under this Agreement. If an assurance that provides reasonable evidence of future performance is not provided within ten (10) business days of a written request, the requesting Party may immediately terminate this Agreement upon written notice.

Section 10.2 Effects of Termination

If the Section K is terminated for any reason:

- a. All Fees will be paid by Customer for amounts owed through the effective date of termination.
- b. Any Fees paid by Customer for the Service not rendered prior to the effective date of termination will be credited against Customer's account, with any remaining amounts refunded to Customer within thirty (30) days of the effective date of termination.
- c. Customer's right to use the Service will end as of the effective date of termination. Notwithstanding such termination, Customer will have thirty (30) days after the effective date of termination to access the Service for purposes of retrieving Customer Data through tools provided by Kronos that will enable Customer to so extract Customer Data. If Customer requires a longer period of access to the Service after termination to retrieve Customer Data, such access will be subject to additional Fees. Extended access and use of the Services will be subject to the terms of this Section K.
- d. Kronos will delete Customer Data after Customer's rights to access the Service and retrieve Customer Data have ended. Kronos will delete Customer Data in a series of steps and in accordance with Kronos' standard business practices for destruction of Customer Data and system backups. Final deletion of Customer Data will be completed when the last backup that contained Customer Data is overwritten.
- e. Kronos and Customer will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Section K.
- f. Provisions in this Section K which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination will so survive.

11. Indemnification

11.1 Kronos will defend the Customer Indemnified Parties, from and against any and all Claims alleging that the permitted uses of the Service, Technology or Applications infringe or misappropriate any legitimate copyright or patent. Kronos will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including, without limitation, reasonable attorneys' fees) actually awarded to a third party by a court of applicable jurisdiction as a result of such Claim, or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Service by reason of infringement or misappropriation of any such copyright or patent, or if in Kronos' opinion, the Service is likely to become the subject of a successful claim of infringement or misappropriation, Kronos (at its option and expense) will use commercially reasonable efforts to either (a) procure for Customer the right to continue using the Service as provided in the Section K, or (b) replace or modify the Service so that the Service becomes non-infringing but remains substantively similar to the affected Service. Should neither (a) nor (b) be commercially reasonable, either Party may terminate the Agreement and the rights granted hereunder, at which time Kronos will provide a refund to Customer of the PEPM Fees paid by Customer for the infringing elements of the Service covering the period of their unavailability.

11.2 Kronos will have no liability to indemnify or defend Customer to the extent the alleged infringement or misappropriation is based on: (a) a modification of the Service undertaken by anyone other than Kronos, or not undertaken at Kronos' direction and in accordance with such direction; (b) use of the Service other than as authorized by this Section K; or (c) use of the Service in conjunction with any equipment, service or software not provided by Kronos, where the Service would not otherwise infringe, misappropriate or otherwise become the subject of the Claim.

11.3 Customer shall be responsible and liable for all damages and costs of Kronos arising out of any and all Claims alleging that: (a) the Configurations violate any law applicable to the rights of an Authorized User; (b) Customer's modification or combination of the Service with other services, software or equipment not furnished by Kronos, infringes or misappropriates any copyright or patent, provided that such modification or combination is the cause of such infringement and was not authorized by Kronos in writing; or, (c) a claim that the Customer Data or its collection or use by Customer violates the AUP or Applicable Laws.

11.4 The Indemnified Party will provide written notice to the indemnifying party promptly after receiving notice of such Claim. If the defense of such Claim is materially prejudiced by a delay in providing such notice, the purported indemnifying party will be relieved from providing such indemnity to the extent of the delay's impact on the defense. The indemnifying party will have sole control of the defense of any indemnified Claim and all negotiations for its settlement or compromise, provided that such indemnifying party will not enter into any settlement which imposes any obligations or restrictions on the applicable Indemnified Parties without the prior written consent of the other Party. The Indemnified Parties will cooperate fully (at the indemnifying party's request and expense) with the indemnifying party in the defense, settlement or compromise of any such action. The indemnified party may retain its own counsel at its own expense, subject to the indemnifying party's rights above.

12. Extent and Limitations of Liability

12.1 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS EXPRESSLY SET FORTH IN SECTION 11 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS TO CUSTOMER OR TO ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO ACTUAL AND DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICE IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES.

12.2 **NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES.** NEITHER PARTY WILL BE LIABLE FOR THE COST OF ACQUIRING SUBSTITUTE OR REPLACEMENT SERVICES. NEITHER PARTY WILL BE LIABLE FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICE OR THIS AGREEMENT. THESE LIMITATIONS APPLY FOR ANY REASON, REGARDLESS OF ANY LEGAL THEORY AND FOR WHATEVER REASON LIABILITY IS ASSERTED.

13. Changes

The information found in any Exhibit (or at any URL referenced in this Section K) may change over the Term. Any such change will be effective as of the start of the next Renewal Term after such change is announced or published by Kronos.

14. Feedback

From time to time, Customer may provide Feedback. Kronos has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants Kronos a royalty-free, fully paid up, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, distribute, transmit, display, perform, create derivative works of and otherwise fully exercise and commercially exploit the Feedback for any purpose

in connection with Kronos' business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Section K limits Kronos' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Attachment A-1: Equipment Purchase, Rental, and Support:

www.kronos.com/workforce-dimensions/agreement/attachment-a1

Attachment A-2: Professional and Educational Services Policies:

www.kronos.com/workforce-dimensions/agreement/attachment-a2

Attachment A-3: Service Level Agreement:

www.kronos.com/workforce-dimensions/agreement/attachment-a3

Exhibit K-C: Customer Success

Section 1. Success Plans

1.1 Kronos offers the following Success Plans for Workforce Dimensions:

- a. Community Success (included in Customer's PEPM Fee)
- b. Guided Success (available for an additional Fee)
- c. Signature Success (available for an additional Fee with minimum annual spend in PEPM and Equipment Rental Fees)

1.2 As part of the Community Success Plan, Kronos will provide:

- a. Local Time Zone Support: 8am – 8pm Monday to Friday, with two-hour response time to support cases.
- b. 27/7 Mission Critical Support: Immediate and on-going support for a critical issue with no available workaround, where the system or a module may be down, experiencing major system degradation, or other related factors.
- c. Kronos Community Access: Ability to access how-to articles, discussion boards, and open support cases .
- d. Kronos Onboarding Experience: Step-by-step guidance to assist Customer during onboard activities.
- e. KnowledgeMap™: On-line education portal providing access to Kronos e-learning resources.
- e. KnowledgeMap™ Live may be purchased for an additional Fee.
- f. A Technical Account Manager (TAM) may be purchased for an additional Fee: senior Technical Support Engineers or former Kronos Application Consultants with industry-specific Kronos product knowledge.

1.3 As part of the Guided Success Plan, Kronos will provide:

- a. All of the services under Community Success, including the option to purchase KnowledgeMap™ Live or a TAM.
- b. Proactive Support: Monitoring of your environment and usage with proactive notification and resolution of potential issues.
- c. Named Success Manager: Dedicated, industry-specific advisor.
- d. Live Check-In Meetings: Regular meetings with your named success manager.
- e. Personalized Success Path: Tailored guidance based on your business goals.
- f. Success Reporting: Personalized reporting providing insight into your key performance indicators on an annual basis (i.e., user adoption, compliance, productivity, efficiency.)
- g. Executive Business Review: Strategic review of roadmap, realized value, engagement, relationship, and future direction.
- h. Optimization Assessment: Assistance with optimizing the use of Workforce Dimensions based on your current usage patterns.

1.4 As part of the Signature Success Plan, Kronos will provide:

- a. All of the services under Guided Success. Additionally, KnowledgeMap™ Live and a TAM are included as part of the Signature Success Plan for no additional Fee.
- b. 24/7 Local Time Zone Support with one-hour response time to support cases.
- c. Technical Account Manager included at no additional charge.
- d. Integration/API Support: Assistance with enhancing and updating existing APIs and integrations.

- e. KnowledgeMap™ Live included at no additional charge.
- k. Industry Best Practice Audit: Review configuration and use of Workforce Dimensions against industry peers and provide recommendations.

1.5 Each Success Plan provides different services and different service coverage periods, which are described in Attachment C-1.

1.6 The Kronos policies set forth in Attachment C-2 shall apply to all Success Plans.

Attachment C-1: Success Plans:

www.kronos.com/workforce-dimensions/agreement/attachment-c1

Attachment C-2: Support Policies:

www.kronos.com/workforce-dimensions/agreement/attachment-c2

Exhibit K-E: AtomSphere Service and Boomi Software

As part of the Service, Customer has the right to access and use the Boomi AtomSphere Service and a non-exclusive, non-transferable and non sublicenseable license to use the associated Boomi Software as part of the Boomi AtomSphere Service. Customer may use the Boomi AtomSphere Service and the Boomi Software only to create integrations to and from the Service.

There are two (2) cloud environments associated with Customer use of the Boomi AtomSphere Service and the Boomi Software:

- a. Run-Time environment: A run time environment in the Kronos Cloud where the integration created by with the Boomi AtomSphere Service runs. This environment is described in Exhibit B.
- b. Development environment: A development environment in the Boomi Cloud where the design and development tools exist to build the integrations. This environment is referred to as a Hosted Environment in Attachment E-1.

The Boomi AtomSphere Service is subject to the additional terms and conditions set forth below. These additional terms and conditions apply to all integrations to and from the Service using the Boomi AtomSphere Service, whether done by Customer or by Kronos. Except as provided in these additional terms and conditions, all terms and conditions of this Section K related to the Service apply to the Boomi AtomSphere Service. Upon termination, Customer's rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.

Attachment E-1: Boomi Flow Down Provisions:

www.kronos.com/workforce-dimensions/agreement/attachment-e1

Exhibit K F: Workforce Dimensions™ Add-Ins

This Exhibit governs the Add-In(s) to be provided by Kronos to Customer, if specified on an Order Form. Capitalized terms not otherwise defined herein shall have the meanings prescribed to them in the Agreement. In the event of a conflict or inconsistency between the Agreement and this Exhibit, this Exhibit shall control.

Customer agrees that the Add-In(s) may only be used solely in connection with Workforce Dimensions™ for Customer's own internal purposes. The Add-Ins are not installed in the Kronos hosting environment in which Workforce Dimensions resides. The Add-Ins may only be installed and operated in a data center or other cloud environment managed by or on behalf of Customer. Customer is solely responsible to have all applicable rights, licenses and necessary infrastructure and support to use the third-party applications with which the Add-In(s) function, including security of the environment in which the Add-In(s) are installed.

The Service Level Agreement and associated SLAs (Attachment A-3) and the Workforce Dimensions Cloud Guidelines (Exhibit B) in the Agreement do not apply to the Add-In(s) because the Add-In does not reside in Kronos' hosting environment.

Implementation. Configuration and deployment of the Add-In(s) may be performed by Customer in accordance with Kronos written instructions and guidelines. Alternatively, Customer may engage Kronos or a third party to perform implementation or professional services as described in the Agreement.

Warranty Disclaimer. Kronos does not warrant that the Add-In(s) will be free from errors or service interruption. Kronos disclaims errors and liability with respect to the third-party applications or APIs with which the Add-In(s) function. Customer is solely responsible to manage its accounts or systems that may access the Add-In(s).

CONTRACT AMENDMENT #1
Sealed Bid # 18-6390
Contract #18220

Date of Amendment: July 16, 2020

Owner: Cobb County Board of Commissioners. Cobb County, Georgia
Contractor: Kronos Incorporated
Project: Bid # 18-6390, Workforce Management Systems and Related Products, Services and Solutions

Current Contract Term: March 18, 2019 to March 17, 2022

This action amends the current contract dated March 18, 2019, for Sealed Bid # 18-6390. It is valid when signed by both the Owner and Contractor. The signature of the Contractor indicates his/her agreement herewith, including any adjustments in the contract pricing, contract term, or contract scope.

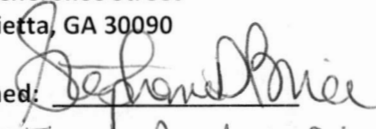
Additional Terms and Conditions as per Exhibit K-C

This amendment serves as confirmation that Cobb County Government has approved the modification of terms and conditions per the attached. This amendment will cover the period July 1, 2020 through March 17, 2022.

ACCEPTED - The above listed terms and conditions of this Amendment are satisfactory and are hereby accepted.

OWNER

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Signed: 

Title: Interim Purchasing Director

Date: 7/22/2020

CONTRACTOR

Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

Signed: Nicole Dandurant
Order Processing Analyst
Jul 21 2020 3:30 PM

Title: Nicole Dandurant

Date: _____

cosign

Kronos Incorporated Modifications to Exhibit K-C “Customer Success” of the Kronos Terms and Conditions for Participating Public Entities

The following additional terms shall apply from the effective date of this Amendment

Exhibit K-C: The parties hereby agree that the entirety of Exhibit K-C shall be replaced with the following provisions:

Exhibit K-C: Customer Success

Section 1. Success Plans

1.1 Kronos offers the following Success Plans for Workforce Dimensions:

- a. Essentials (included in Customer’s PEPM Fee)
- b. Enhanced (available for an additional Fee as indicated on the Order Form)

1.2 As part of the Essentials Success Plan, Kronos will provide:

- a. Local Time Zone Support: 8am – 8pm Monday to Friday, with two-hour response time to support cases.
- b. 24/7 Mission Critical Support: Immediate and on-going support for a critical issue with no available workaround, where the system or a module may be down, experiencing major system degradation, or other related factors.
- c. Kronos Community Access: Ability to access how-to articles, discussion boards, and open support cases .
- d. Kronos Onboarding Experience: Step-by-step guidance to assist Customer during onboard activities.
- e. KnowledgeMap™: On-line education portal providing access to Kronos e-learning resources.
- e. KnowledgeMap™ Live may be purchased for an additional Fee.
- f. A Technical Account Manager (TAM) may be purchased for an additional Fee: senior Technical Support Engineers or former Kronos Application Consultants with industry-specific Kronos product knowledge.

1.3 As part of the Enhanced Success Plan, Kronos will provide:

- a. All of the services under the Essentials Success Plan.
- b. 24/7 Local Time Zone Support with one-hour response time to support cases.
- c. Dedicated Success Manager included at no additional charge.
- d. Integration/API Support: Assistance with enhancing and updating existing APIs and integrations.
- e. New Feature Review and Activation assistance.
- f. Industry Best Practices Review: Review configuration and use of Workforce Dimensions against industry peers and provide recommendations.
- g. Configuration Review: Assistance with optimizing the use of Workforce Dimensions based on your current usage patterns.

1.4 The Kronos policies set forth in Attachment C-1 shall apply to all Success Plans.

Attachment C-1: Support Policies:

<https://www.kronos.com/workforce-dimensions/agreement/support-policies>

CONTRACT AMENDMENT #2
Sealed Bid # 18-6390
Contract #18220

Date of Amendment: August 25, 2021

Owner: Cobb County Board of Commissioners. Cobb County, Georgia
Contractor: Kronos Incorporated
Project: Bid # 18-6390, Workforce Management Systems and Related Products, Services and Solutions

Current Contract Term: March 18, 2019 to March 17, 2022

This action amends the current contract dated March 18, 2019, for Sealed Bid # 18-6390. It is valid when signed by both the Owner and Contractor. The signature of the Contractor indicates his/her agreement herewith, including any adjustments in the contract pricing, contract term, or contract scope.

Addition of UKG Pro Discount % and Terms and Conditions as per Section L and the Revised Cost Proposal Form

This amendment serves as confirmation that Cobb County Government has approved the modification of terms and conditions per the attached. This amendment will cover the period August 25, 2021 through March 17, 2022.

ACCEPTED - The above listed terms and conditions of this Amendment are satisfactory and are hereby accepted.

OWNER

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, Georgia 30090

Signed: _____

Title: Purchasing Director

Date: 8/26/2021

CONTRACTOR

Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

Signed: _____

Title: Chief Revenue Officer

Date: 8/25/21

Section L

UKG Pro SaaS Terms and Conditions

This Section applies to the UKG Pro Services ordered by Customers as more fully detailed in the applicable Order Form in addition to Section A.

1. Definitions

Applicable Law(s) - means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, administrative rules, rules of court, and orders which govern the Party's respective business.

Application(s) - means those UKG Pro software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Section L, Section A and the Order Form.

Billing Start Date – as set forth in an Order Form.

Customer Data – all posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

Documentation - means the published online specifications for the Applications, such as user manuals and administrator guides.

Initial Term - means the initial term of the Services as identified on an Order Form.

Order Form - means an order form mutually agreed upon and signed by Kronos and Customer setting forth, among other things, the offerings ordered by Customer and to be provided by Kronos and the fees to be paid by Customer.

Renewal Term - means the renewal term of the Services as identified on the Order Form.

SaaS Services - Consist of providing the necessary network infrastructure, computer hardware, third party software, database administration services and connectivity point at the SaaS Site.

SaaS Site - Location for the necessary software and hardware to provide the SaaS Services.

Services - The UKG Pro Applications, support and SaaS Services on a subscription basis as set forth in an Order Form.

2. Billing

2.1 Customer agrees to pay Kronos for all subscription fees, Launch fees, consulting services fees or other fees and Kronos will invoice the fees as indicated on an Order Form. Unless otherwise agreed to on an Order Form, fees shall be invoiced as incurred. For each Order Form, the billing period of the fees will start as set forth in an Order Form and will continue for the time period indicated as the Initial Term on the Order Form. Customer will pay the fees on the payment terms indicated on the Order Form via ACH or mail, or as otherwise set forth in an Order Form. Unless expressly provided in this Section L, Customer payments are non-refundable.

2.2 All undisputed invoices and expense reimbursements are due within thirty (30) days of Customer's receipt of invoice. All disputes regarding invoices shall be made by Customer in good faith within thirty (30) days of Customer's receipt of invoice.

2.3 Kronos may utilize a script, program, sequence of instructions or functional equivalent to determine an accurate number of personnel using or having access to the Applications. The results of, and information obtained from, the electronic analysis shall be subject to the Confidential Information section outlined in this Section A.

2.4 At the expiration of the Initial Term, and at the expiration of each Renewal Term, the Services will automatically renew for a Renewal Term. For each Renewal Term, Kronos may increase the fees by no more than four percent (4%) over the previous year's fees for the same Applications and the same licensed quantity and employee type. The increased fees will be set forth in the applicable invoice.

2.5 Kronos will provide the Services to Customer during the entire Initial Term and each Renewal Term. Customer will pay for the Services for the entire Initial Term and each Renewal Term.

2.6 Kronos may suspend the Services if any undisputed amount that Customer owes Kronos is more than thirty (30) days overdue. Kronos will provide Customer with at least ten (10) days prior written notice that the Customer's account is overdue before Kronos suspends the Services. Upon payment in full of all overdue amounts, Kronos will promptly restore the Services.

3. Term, Termination and Effects of Termination

3.1 Term of an Order Form. The Initial Term of an Order Form will be as set forth in such Order Form. Following the Initial Term of an Order Form, such Order Form will automatically renew as set forth in the Order Form (each, a "Renewal Term") until such time as either party provides the other with written notice of termination; provided, however, that: (a) such notice be given no fewer than sixty (60) calendar days prior to the last day of the then-current term and (b) any such termination will be effective as of the date that would have been the first day of the next Renewal Term. Unless terminated as provided in the Agreement, this Order Form shall remain in effect as long as the Agreement is in effect.

3.2 Termination. If either Party materially breaches any of its duties or obligations hereunder and such breach is not cured, within thirty (30) calendar days after written notice of the breach, which such notice shall contain reasonably sufficient detail regarding the alleged breach, then the non-breaching Party may terminate the applicable Order Form adversely affected by such breach.

3.3 Effects of Termination. Upon Customer's written request and if ordered by the Customer, within five (5) business days of termination of this applicable Order Form, Kronos shall provide to Customer a copy of Customer's UKG Pro Pay and People Center data in a standard structured query language "SQL" server format via secured file transfer protocol "SFTP" server or similar method at a cost identified on the applicable Order Form to be billed as incurred.

In addition, upon expiration or termination of this Agreement or of the applicable Order Form for any reason, Kronos shall completely destroy or erase all copies of Customer's Confidential Information in Kronos's possession in any form, including but not limited to electronic, hard copy or other memory device except for (i) Customer's Confidential Information contained in any backup which shall be retained for a term of up to ninety (90) days from the date of termination, or (ii) as otherwise set forth in this Agreement or in any Order Form.

4. Services

4.1 The Services which may be ordered under this Section L will be detailed in an Order Form. Each Order Form will reference this Agreement, specify the type, quantity, and price of the offerings being purchased, payment terms, and be signed by the Parties. Kronos may fulfill its obligations related to certain services through its Kronos's affiliates and parent company. Customer acknowledges and agrees that the right to use the Services is limited based upon the number of employees licenses as identified on the Order Form, and Customer's payment of the corresponding Subscription Fees identified on the Order Form. Customer agrees to use the Applications only for the number of employees stated on the total of all Order Forms for the applicable Applications. Customer agrees not to use any other Application nor increase the number of employees using an Application unless Customer enters into an additional Order Form that will permit the Customer to have additional employee. Additional launch services may also be required to be ordered at the applicable fees with such additional employee licenses.

4.2 If testing services appear on the Order Form, UKG shall provide certain UKG Pro Testing Services for human resources and payroll administration, as applicable. Customer will receive up to a maximum of four (4) Restores (initial and/or subsequent loading of Customer's data from Customer's production environment to Customer's test environment) per twelve (12) month period ("Test Period"). Customer acknowledges that the test environment, while functionally the same as the production environment is not scaled for, nor designed to replicate a fully operational production environment. Customer will Identify the key contact personnel who will be responsible for scheduling and coordinating all activities related to the implementation and ongoing maintenance of the test environment.

5. Proprietary Protection and Restrictions

5.1. Kronos has and shall have sole and exclusive ownership of all rights, title, and interest in the Applications and all modifications and enhancements thereof (including ownership of all trade secrets copyrights, and intellectual property rights pertaining thereto). Customer is only permitted to use the Applications, for its own employees and the employees of its Affiliates and is not permitted to provide service bureau, data processing, time sharing services or to otherwise provide payroll or human resource record keeping for third parties.

5.2 To the extent that any third party software is provided herein, Customer agrees that it shall only use such software in conjunction with the Services. Customer acknowledges that it is prohibited from engaging in, causing, assisting or permitting, the reverse engineering, disassembly, translation, adaption or recompilation of the Services and any third party software and that it shall not attempt to obtain or create the source code from the object code of the Services and third party software provided to it pursuant to this Agreement, unless explicitly permitted by applicable law.

5.3 Customer acknowledges that it will not use the Services or any third party software for any illegal purpose or activity. Customer agrees to comply with Applicable Laws. Further, the specific record retention schedules established under Applicable Laws applicable to Customer are the responsibility of Customer and are not the responsibility of Kronos or the services being provided under the Agreement. Kronos has no responsibility or liability for maintaining or retaining said records for Customer.

5.4 Kronos hereby represents and warrants to Customer that the Services will not violate the patent, copyright, or other proprietary rights of any third party.

6. Ownership and Use of Kronos Intellectual Property

6.1 Kronos materials and intellectual property in existence prior to this Agreement or created, developed or acquired during the term of this Agreement, including without limitation ideas, inventions, suggestions, Feedback or other information created as a result of Kronos's efforts under this Agreement ("Kronos Intellectual Property") are the sole and exclusive property of Kronos.

6.2 Customer may provide suggestions, comments or other feedback (collectively, "Feedback") to Kronos. Kronos may use Feedback for any purpose without obligation of any kind.

7. Customer Data

7.1 Customer shall retain ownership of the entire right, title and interest in and to Customer Data. No ownership rights in such materials, data and information are transferred to Kronos.

7.2 Kronos shall maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data as more fully set forth in Exhibit L-2 "Data Security and Privacy".

8. Product Support Services

8.1 Kronos shall maintain a product-trained and knowledgeable staff capable of rendering the Services set forth in an Order Form. Kronos will use all reasonable diligence to correct verifiable and reproducible errors when reported to Kronos.

8.2 Kronos Product Support Services include (i) customer phone, email, and online support 24 hours a day/7 days a week, (ii) a designated account manager available between normal business hours (8:30 am to 5:30 pm Customer's time zone Monday through Friday), (iii) periodic enhancements and modifications to the Applications furnished by Kronos, and (iv) to the extent applicable to the Applications, federal, state and local tax payroll updates.

9. Force Majeure

Kronos shall not be liable for any delays in the performance of any of its obligations hereunder due to causes beyond its reasonable control, including, but not limited to, fire, epidemic or pandemic of contagious disease, strike, war, riots, acts of civil or military, judicial actions, acts of God, or any other casualty or natural calamity.

10. Sub-processors

10.1 Kronos remains responsible for the confidentiality obligations as set forth in this Agreement and for the acts of any service provider and/or sub-processor Kronos retains in this regard, Kronos reserves the right to have Confidential Information and/or Customer Data accessed by Kronos's service providers, sub-processors and/or employees, some of whom may be outside the United States or Canada for the sole purpose of performing or upgrading services for the Customer.

10.2 Customer agrees that Kronos may use sub-processors to fulfill its contractual obligations under this Agreement. The list of sub-processors that are currently engaged by Kronos to carry out processing activities on Customer Data on behalf of Customer can be made available to Customer upon Customer's written request. Customer hereby authorizes the engagement as sub-processors of all entities set forth in such list. Customer further generally authorizes the engagement as sub-processors of any other third parties engaged by Kronos for such purposes. The foregoing authorizations will constitute Customer's prior written consent to the subcontracting by Kronos of the processing of Customer Data if such consent is required under Applicable Law.

11.3 At least thirty (30) days before any new sub-processor will carry out processing activities on Customer Data on behalf of Customer, Kronos will update the applicable list and provide Customer with a mechanism to obtain notice of that update. Customer may object, on reasonable data protection grounds, to any such new sub-processor by providing notice of such objection to Kronos within ten (10) days of Customer's receipt of notification of the addition of the new sub-processor by Kronos. In the event Kronos, in its sole discretion, is unable to forego the utilization of any such objected to new sub-processor for the processing of Customer Data or is otherwise unable to reasonably correct or remedy the Customer's objection within thirty (30) days of Kronos's receipt of such objection from Customer, the Customer may terminate the impacted services upon written notice to Kronos. This termination right is Customer's sole and exclusive remedy if Customer objects to any new sub-processor.

11.4 When engaging any sub-processor Kronos will enter into a written agreement with the sub-processor and such written agreement with the sub-processor will require the sub-processor to (i) have appropriate technical and organizational measures to meet the requirements of applicable data protection laws, (ii) be bound to confidentiality obligations at least as restrictive as those contained in this section of this Agreement, and (iii) Kronos will remain responsible for the performance of the sub-processor's processing of Customer Data and compliance with applicable data protection laws.

11. STANDARD OF CARE, LIMITED WARRANTY

12.1 KRONOS WARRANTS THAT THE SAAS SERVICES RENDERED WILL CAUSE THE APPLICATIONS TO SUBSTANTIALLY PERFORM IN ACCORDANCE WITH THE DOCUMENTATION. IN THE EVENT OF A BREACH OF THE FOREGOING WARRANTY, AS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, KRONOS WILL MAKE ALL NECESSARY CORRECTIONS TO REMEDY SUCH BREACH WITHOUT ADDITIONAL COST TO THE CUSTOMER.

12.2 PROFESSIONAL SERVICES PROVIDED HEREUNDER BY KRONOS WILL BE PERFORMED IN A MANNER CONSISTENT WITH THE STANDARDS AND THE GENERAL CUSTOMS AND PRACTICES OF THE INDUSTRY. EXCEPT AS OTHERWISE PROVIDED FOR IN AN ORDER FORM, CUSTOMER MUST REPORT ANY DEFICIENCIES IN THE LAUNCH OR CONSULTING SERVICES WITHIN SIXTY (60) DAYS FROM THE DATE OF COMPLETION OF SUCH LAUNCH OR CONSULTING SERVICES.

12.3 THE WARRANTIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF, AND KRONOS DISCLAIMS AND CUSTOMER WAIVES, ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. KRONOS FURTHER DISCLAIMS ALL WARRANTIES AND RESPONSIBILITY FOR THIRD PARTY SOFTWARE NOT EMBEDDED IN OR REQUIRED FOR THE APPLICATION TO SUBSTANTIALLY PERFORM IN ACCORDANCE WITH THE DOCUMENTATION, WHICH SHALL BE THE SOLE OBLIGATION OF THE PROVIDER OF THE THIRD-PARTY SOFTWARE. IN THE EVENT DISCLAIMER OF WARRANTY STATEMENTS ARE DISALLOWED IN THE APPLICABLE GOVERNING JURISDICTION, SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE APPLICABLE WARRANTY PERIOD (OR THE MINIMUM PERIOD REQUIRED BY THE APPLICABLE LAW).

12. LIMITATION OF LIABILITY

IN NO EVENT SHALL KRONOS'S LIABILITY ON ANY CLAIMS FOR DAMAGES OR CHARGES ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT EXCEED THE AMOUNT OF THE SUBSCRIPTION FEE PAID BY CUSTOMER FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. IN NO EVENT SHALL KRONOS BE LIABLE FOR ANY LOST REVENUES OR LOST PROFITS, OR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY NATURE WHATSOEVER HOWEVER ARISING, EVEN IF KRONOS HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE.

13. Indemnification

Kronos agrees to indemnify, defend, and hold Customer harmless from and against any and all actions, liabilities, damages, losses, expenses, demands, suits, fines, or judgments, in each case arising from a third party (collectively "Claims"), including reasonable attorneys' fees, costs, and expenses relating thereto, to the extent that such Claims arise out of or relate to a claim that any Services infringe or misappropriate any patent, copyright, trade secret, trademark or other proprietary right, provided Customer notifies Kronos in writing immediately upon notice of the Claim and cooperates fully in the defense of such claim. Kronos shall have full and exclusive control of any such defense and settlement of the Claim. Notwithstanding the foregoing, however, the Claims described in this Section will be apportioned between Kronos and Customer on a comparative fault basis to the extent that Claims result from the negligence, gross negligence or willful acts of Customer.

14. General

14.1 The provisions of this Agreement are for the sole benefit of the Parties and they will not be construed as conferring any rights on any third party nor are there any third party beneficiaries to this Agreement.

14.2 The Parties agree that Kronos shall be entitled to refer to the Customer as a Kronos customer, including the use of Customer's name and Customer's logo, on public platforms that include but are not limited to lists of Kronos's customers, and on Kronos's website.

15. Status of Kronos as Independent Contractor

Kronos shall devote such time and effort to the performance of the services it deems necessary to satisfactorily complete the Services. Kronos shall be an independent contractor in the performance of this Agreement and shall not be deemed an employee or agent of Customer for any purpose whatsoever. Neither Party shall have power to act as an agent of the other or bind the other in any respect.

16. SaaS Services

Kronos will provide the SaaS Services at Kronos's SaaS Site. Kronos reserves the right to change the location of the SaaS Site if it deems necessary. At the SaaS Site will be the hardware and software necessary to run and support the Applications from a remote location(s). Customer acknowledges that the SaaS Services may change from time to time as is required by changes to normal business conditions. It is further understood by Customer that any changes to the SaaS Services will be applicable to all Kronos's customers that are utilizing SaaS Services. Kronos will make best efforts to publish such changes to the SaaS Services within a reasonable time frame to the Kronos portal. In any event, Kronos shall make changes that are equivalent or better and will not downgrade the products or services offered to Customer as of the effective date or an Order Form.

16.1 Kronos Responsibilities

- Provide sufficient computer infrastructure, equipment, software, network bandwidth and security within the environment to allow the Customer access to the SaaS Services.
- Maintain, monitor and administer Kronos's federated services infrastructure and, upon request, configure customer instances in the federation environment for Kronos Pro SSO.
- Provide connectivity for the system administration users.
- Provide Customer with release upgrade schedule for the Applications.
- Assign roles and password protection to all system administration users identified by Customer as requiring system administration rights.
- Execute nightly maintenance procedures.
- Maintain business continuity environment and process, which are tested annually
- Execute scheduled cumulative backup procedures (and restore as necessary)
- Maintain application recovery procedures with a recovery point objective of 4 hours
- Maintain cumulative backups pursuant to Kronos's standard retention policy
- Conduct capacity planning, track application and network utilization, forecast growth and the impact on network and infrastructure and size accordingly
- Perform system maintenance and upgrades for the Applications and all third party software required to deploy the SaaS Services.
- Perform SaaS infrastructure and network infrastructure maintenance on the following schedule for the production SaaS Site:
 - Perform system daily maintenance from 3:00 a.m. EST to 5:00 a.m. EST not to exceed a maximum of five (5) hours per month and may include general release upgrades. No additional advanced notice provided.
 - NOTE: Customer may experience intermittent connectivity during these periods or may be restricted from access during these periods.
- Perform emergency maintenance, as required, when necessary. Where possible, Kronos will use commercially reasonable efforts to provide advanced notification.
- Kronos will provide Customer advanced notification of the following maintenance via the support portal.
 - Perform extended release upgrade window as required three (3) times per year on either Saturday or Sunday from 2:00 a.m. EST to 8:00 a.m. EST.
 - Perform extended system maintenance as required once per year on either Saturday or Sunday from 12:01 a.m. EST to 12:00 p.m. EST.

16.2 Customer Responsibilities

- Identify the key contacts responsible for coordinating all activities related to the launch and ongoing operation of the Services.
- Provide the necessary infrastructure and/or software capabilities, network security and directory structure to establish and maintain a SAML 2.0 based single sign-on solution between Customer and Kronos for Kronos Pro SSO, if applicable.
- Provide Kronos with a list of Customer system administration users that require access to the SaaS environment.
- Maintain Customer workstations, running a supported browser.
- Maintain Customer printer environment.
 - Note: MICR check printing requires HP compatible printers
- Maintain Internet connectivity to access SaaS Site.
- Customer shall notify Kronos of events that permit changes to contractual terms, such as significant personnel growth, by providing Kronos with thirty (30) days advanced written notice of its intention to use the Applications for the additional personnel so that Kronos can ensure proper configuration of the Applications.
- Manage, monitor and maintain confidentiality, user security and privacy settings within the Applications for Customer's users, including, but not limited to, user identifications, password setup/change, account lockout frequency, enabling multifactor authentication, and enabling internet protocol filtering.
- Customer will be responsible to provide for the specified connectivity between the Customer's location(s) to the internet. Customer agrees that Kronos will have no liability for and Customer will not be excused from any of its obligations under the Agreement as a result of the quality, speed or interruption of the communication lines from the Customer's location(s) to the internet.

17. Training

17.1 The training Services are included at no additional charge for the term of the Agreement and are as follows ("Training Services"):

- **Regional Classroom Training**

Kronos shall provide hands-on training at an Kronos regional classroom training facility, pursuant to any published Kronos training schedules and availability and provide a comprehensive agenda for all UKG Pro product training. Training will be facilitated by a trained and knowledgeable instructor. All expenses related to training the employees of Customer at a Kronos regional classroom training facility, such as transportation, hotels, meals, etc., will be the responsibility of Customer.

- **Virtual Learning Environment Training**

Kronos shall provide its live, hands-on classroom training, including a comprehensive agenda and facilitation by a trained and knowledgeable instructor, delivered to Customer's personnel via the Internet. Training is intended for the following audiences:

- Core team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- Application & system administrator to prepare functional and technical super users to perform their most common tasks in the solution.

- **Self-Paced Training**

Kronos shall provide self-paced product training via the Internet.

18. Exhibits: The following Exhibits which are referred to herein and annexed hereto are incorporated into and made part of this Agreement (collectively, the "Exhibits"):

Exhibit L-1	Service Level Agreement
Exhibit L-2	Data Security and Privacy
Exhibit L-3	Employer Services

Exhibit L-1
Service Level Agreement

1. Service Level for Production SaaS Services

Kronos's service level objective is to make the Applications available a minimum of ninety nine and three quarters percent (99.75%) of the time as measured over any one month, not to include maintenance as set forth in Section 17.1 of Section L. ("Availability").

2. Kronos Customer Service Severity Level Summary

Kronos uses three (3) levels of priority to identify and track the severity of each service request submitted and its impact on the Customer's organization as set forth in the chart below. Kronos reserves the right to update the chart below to reflect adjustments to Kronos's processes and to enhance Kronos's responsiveness to customer needs. In any event, Kronos shall make changes that are equivalent or better and will not downgrade the products or services offered to Customer as of the Effective Date of this Order Form.

Severity Level	Description	Target Response Time
High	A critical Customer issue with no available workaround where the applications cannot be accessed, or where the applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll.	One (1) business hour or immediately via Rapid Response
Medium	A serious Customer issue which impacts ability to utilize the application effectively	Two (2) business hours or immediately via Rapid Response
Low	Non-critical problem generally entailing use and usability issues or "how to" questions	Within four (4) business hours

Exhibit L-2 Data Security and Privacy

1. Data Governance

- a. In the course of providing the Services, Kronos may collect, transfer, store and use Customer Data, as defined in the Agreement. For these purposes, Customer Data may be transferred to or made accessible to (i) Kronos personnel as is required to perform the SaaS Services in accordance with the Agreement and in accordance with applicable data privacy protection laws; (ii) third parties (including, but not limited to, courts, law enforcement, or regulatory authorities), where required by law, provided Kronos will provide reasonable notice to Customer prior to any such disclosure if legally permissible and (iii) to the extent Customer purchases UKG Pro Benefits Administration, PlanSource Benefits Administration, Inc. solely for the purposes of providing UKG Pro Benefits Administration hereunder and in accordance with the standard SaaS environment, security set up, and other policies and procedures of PlanSource Benefits Administration, Inc. and not those of Kronos.
- b. Kronos shall maintain internal company wide policies and procedures addressing the secure storage and handling of Customer Data which shall comply with generally accepted industry standards.
- c. Customer grants to Kronos and its affiliates a non-exclusive, perpetual, irrevocable, worldwide license to use, sample, collect, and compile Customer Data in aggregated, de-identified form for the purposes of providing or maintenance of, improvement to, and operation of the SaaS Services or for any new or different products or services. In addition, to the extent Customer purchases UKG Pro Employee Voice, Customer grants to Kronos the right to sub-license to third parties (currently, Mercer (US) Inc.) the Customer Data, which includes the employee survey responses in a de-identified form for the purposes of improvements to the questions sets and bench marking data.
- d. Kronos may fulfill its obligations related to Applications, as applicable, through its parent UKG Inc. and Kronos' affiliated companies.

2. Privacy and Compliance

Kronos represents and warrants that with respect to the collection, storage, transfer, and use of Customer Data it shall comply with (i) all applicable governmental laws, rules, and regulations, including, but not limited to, the European Union General Data Protection Regulations and the California Consumer Privacy Act ("CCPA"), if applicable, (ii) its privacy notice (available at <https://www.ultimatesoftware.com/privacy-notice>), and (iii) generally accepted industry standards, and shall only collect, store, transfer and use Customer Data if and to the extent required to perform services pursuant to the Agreement. In the event CCPA is applicable to the provision of services under this Agreement, Kronos acknowledges and agrees that it is a service provider as defined under CCPA.

Customer is responsible for complying with the Acceptable Use Policy which can be found at: <https://www.ukg.com/policies/acceptable-use>. "Acceptable Use Policy" and "AUP" are interchangeable terms referring to the policy describing prohibited uses of the service as further described in the link. Kronos and its third party cloud sub-processor reserve the right to review Customer's use of the service and Customer Data for AUP compliance and enforcement. If Kronos discovers an AUP violation, and Kronos reasonably determines that Kronos must take immediate action to prevent further harm, Kronos may suspend Customer's use of the service immediately without notice. In such event, Kronos will contact Customer when Kronos suspends the service to discuss how the violation may be remedied, so that the service may be restored as soon as possible. If Kronos does not reasonably believe it needs to take immediate action, Kronos will notify Customer of the AUP violation. Even if Kronos doesn't notify Customer or suspend the service, Customer remains responsible for any such AUP violation. Kronos will restore the service once the AUP violation is cured or as both Parties may agree.

3. Information Security Management Program

Kronos shall maintain a documented, approved and implemented information security management program in accordance with generally accepted industry standard practices that include reasonable administrative, technical, and physical safeguards to protect assets and Customer Data from loss, misuse, unauthorized access, disclosure, alteration, and destruction. The information security management program will address the following areas: risk management, security policy, organization of information security, human resources security, asset management, access control, cryptography, physical and environmental security, operations security, communications security, system acquisition, development, and maintenance, supplier management, information security incident management, information security aspects of business continuity management, and compliance.

4. Data Protection

When working with Customer Data, Kronos shall maintain the following:

- a. Designated security and privacy personnel and departments responsible for the development and implementation of the information security and privacy practices required by this Agreement and Applicable Law;
- b. Require background checks (including criminal) on its workforce;
- c. Implement reasonably appropriate security and privacy awareness training for all members of its workforce;
- d. Transfer and store Customer Data in an encrypted/secure manner;

- e. Shall not store Customer Data on unencrypted mobile devices or media, such as laptops, phones, USB drives, etc;
- f. Implement reasonably appropriate technical safeguards to protect Customer Data, such as firewalls, intrusions detection systems, logging and monitoring systems, access control systems and encryption;
- g. Restrict access to data, applications, systems, databases and networks to approved users with a business need/job responsibility.
- h. Reasonably timely de-provisioning, revocation or modification of user access to Kronos's systems, information assets and Customer Data shall be implemented by Kronos upon any change in status of employees, contractors, customers, business partners or third parties. Any change in status is intended to include termination of employment, contract or agreement, change of employment, transfer within the organization or change in SaaS Service delivery.
- i. Maintain procedures for data retention and storage, and backup/redundancy mechanisms. Kronos will test the recovery of backups at planned intervals
- j. Implement reasonable physical safeguards to restrict physical access to Confidential Information, such as restricted access requiring authentication, and appropriate environmental controls. Physical security perimeters (which may include fences, walls, barriers, guards, gates, electronic surveillance, physical authentication mechanisms, reception desks and security patrols) shall be implemented to reasonably safeguard Customer Data and Kronos's relevant information systems;

5. Audit Reports and Security Assessments

- a. Kronos will have, at a minimum, an annual site audit of Kronos's information technology general controls including, but not limited to, information security, confidentiality and availability controls, performed by an independent third-party audit firm based on the recognized audit standard SSAE 18 SOC 1 and SOC 2 report or equivalent. Kronos will make available to Customer for review, its SSAE 18 SOC 1 and SOC 2 report or equivalent after the report's publication by the independent audit firm. Customer agrees to treat such audit reports as Confidential Information under this Agreement. Any control exceptions noted in the SSAE 18 SOC 1 or SOC 2 report or equivalent will be addressed in the report with management's corrective action. With the exception of Workforce Ready, Kronos maintains certification to ISO 27001 and ISO 27018 and will make the certificate of registration available to Customer upon request.
- b. Kronos will have a network and application level penetration test conducted annually. This audit shall be performed by a recognized third-party audit firm engaged by Kronos.
- c. Customer may also request a comprehensive due diligence package no more than once annually, which shall include a completed industry standard security and privacy due diligence questionnaire and other information on information security, privacy and compliance.

6. Disaster Recovery

- a. Kronos shall have a defined and documented business continuity/disaster recovery plan for recovery services provided to the Customer.
- b. Such plan shall provide for reasonable physical protection against damage from deliberate attacks as well as natural causes and disasters.
- c. Security mechanisms and redundancies shall be implemented by Kronos to reasonably protect equipment from utility service outages (e.g., power failures, network disruptions, etc.).
- d. Telecommunications equipment, cabling and relays transferring data or supporting SaaS Services shall be reasonably protected by Kronos from interception or damage and designed with redundancies, alternative power source and alternative routing.
- e. Such plan shall provide for appropriate backup facilities and technology that will permit transition of the services (from the previous night's backup date), with a maximum recovery time of 24 hours from declaration of a disaster to be operational and accessible to Customer.
- f. Kronos shall conduct a test of such plan each year. Customer may request the annual high level summary of the results of such test.

7. Data Breach

Kronos will respond to, contain and remediate security incidents, using commercially reasonable efforts, on a 24/7 basis. Kronos shall notify Customer of a Security Incident (as defined below) per Applicable Law upon becoming aware of a Security Incident involving Customer Data. A "Security Incident" is a breach of confidentiality, data integrity or a security compromise of a network or server resulting in the unauthorized access, use, transfer or acquisition of Customer Data. Kronos shall inform Customer about Security Incident response activities in reasonable intervals until the Security Incident is resolved, which may include documenting and keeping Customer reasonably informed of all investigative and recovery efforts related to any such Security Incidents, including discovery, investigation and containment, recovery, use of data and experience for gap identification and process improvement, mitigation plans, and cooperation with law enforcement, if legally permissible, as reasonably appropriate.

EXHIBIT L-3

Employer Services

Overview of Employer Services: Services under this exhibit include Payment Services (the payment by UKG of Customer's Payroll Tax Liabilities, Garnishment Liabilities), ACA Distribution Services and Print Services.

Regulated financial services, including regulated aspects of the Payment Services provided under this Exhibit, will be performed by Kronos SaaS, Inc., a subsidiary of Kronos Incorporated

1. Definitions

Customer Payee - means an employee or individual receiving a check, direct deposit or other compensation from Customer using the UKG Pro Software.

DDA - means Direct Deposit Advices.

EFTPS - means U.S. Treasury Department's Electronic Federal Tax Payment System.

Garnishment Liabilities - means that portion of Payroll Liabilities relating to wage garnishments, including federal and state tax levies, bankruptcy orders, student loan, child support and spousal support withholding orders.

NACHA - means National Automated Clearing House Association. NACHA administers the rules for processing Automated Clearing House (ACH) transactions through the ACH network.

Payroll Liabilities - means the U.S. Payroll Tax Liabilities and U.S. Garnishment Liabilities related to a designated payroll check date that Customer owes, but has not yet paid.

Payroll Tax Liabilities - means that portion of Payroll Liabilities relating to payroll taxes, including, all applicable U.S. federal, state and local taxes, Social Security and Medicare and applicable government source deductions which may include income tax withholding, and Employment Insurance.

UKG - shall mean UKG Inc., Kronos Incorporated and its subsidiary Kronos SaaS, Inc., as it relates to the services to be performed under this Exhibit.

Voluntary Deductions - means that portion of Payroll Liabilities that an employee has voluntarily agreed to have withheld from their compensation and paid to another party (such as a creditor or other third party, including but not limited to 401(k) plans, insurance plans and dues).

2. Data Remittance

Customer will complete and close payroll using the UKG Pro Applications before 12:00pm (Customer's local time), no less than two (2) business days prior to the applicable check/cheque date(s). Customer acknowledges that the data and all information from the completed payroll from UKG Pro Applications will be the basis for the Payment Services as provided for herein. Customer acknowledges and agrees to allow UKG access to Customer's master file(s) datastore in order to export data to provide the Payment Services herein.

UKG will not be liable for any invalidity or inaccuracy caused by Customer or Customer Data unless Customer so notifies UKG within one (1) business day of Customer's completion of payroll for the applicable check/cheque date or within ten (10) days of quarterly records being made available to Customer by UKG.

3. Cash Management

U.S. Reporting for Cash Collection

One (1) business day prior to the applicable check/cheque date, Payment Service reports shall be available to Customer applicable to any given payroll closed within the defined parameters as set forth herein, in order to allow Customer to generate reports based upon such data at the open of normal business hours.

U.S. Funds collection

One (1) business day prior to the designated payroll check date(s), UKG will debit Customer's designated bank account(s) for the Payroll Liabilities. Payroll Tax Liabilities not requiring "next day" payment and Garnishment Liabilities will be collected by ACH debit. Payroll Tax Liabilities requiring a "next day" payment will be collected by reverse wire. Funds must be received by UKG by noon (12:00pm) Customer's local time.

Customer funds will be collected to cover other Customer liabilities covered by this Exhibit (to include but not limited to any additional tax payments, penalties and/or interest resulting from tax notices or amendments or quarter-end variances).

Customer agrees to maintain authorization to enable UKG to initiate ACH and reverse wire of Customer's designated bank account(s) and to maintain good and sufficient collected funds in the Customer's designated bank account(s) to cover all funding transactions to be made under this Exhibit.

Prior to Customer using the Payment Services in a production environment or when Customer is changing their designated bank account(s), Customer agrees to establish and successfully test authorization with its bank to allow for ACH and reverse wire in accordance with the terms of this Exhibit.

Banking Transactions

Delivery of Payment Services is subject to the laws and regulations of the banking industry including but not limited to the operating rules of the NACHA.

Customer grants UKG the authority to issue payments on behalf of Customer.

In addition to Customer's other obligations under this Agreement, Customer agrees to comply with the NACHA rules applicable to it with respect to Customer's use of the Payment Services and Customer agrees that UKG shall have the right to require, on a reasonable basis, Customer to demonstrate its compliance with NACHA rules. Customer agrees not to originate transactions that violate laws and regulations. International transactions are not allowed under the Payment Services.

In the event that UKG is prohibited from performing the Payment Services (or a portion thereof) as set forth herein due to a banking institutions' restrictions or other applicable regulatory restrictions, then UKG shall have the option to terminate the Payment Services (or any portion thereof) upon written notice to Customer.

Investment of Funds

UKG has the obligation to pay Customer's Payroll Liabilities to the designated recipient of such Payroll Liabilities (to the extent that Customer has made available or wired the required funds in accordance with the terms of this Exhibit). The Customer funds held by UKG will be segregated from other funds of UKG but may be commingled with funds of other customers. UKG will be entitled to receive all net income generated on any funds held pursuant hereto.

Record of Collections and Disbursements

Customer will examine all records of any disbursements made available to Customer for validity and accuracy according to Customer's records. Customer will promptly notify UKG of any inaccuracies or inconsistencies.

The specific record retention schedules established by governmental entities applicable to Customer are the responsibility of Customer and are not the responsibility of UKG or the services being provided under the Agreement. UKG has no responsibility or liability for maintaining or retaining said records for Customer.

4. Document Execution

Customer agrees to promptly execute any and all documents required for UKG to carry out and Customer to utilize the Payment Services.

Customer agrees that it will promptly respond to any and all reasonable requests made by UKG for the purpose of UKG's performance of the Payment Services. UKG may amend or update the terms of this Exhibit only as reasonably determined by UKG or as mandated by any governmental agency, taxing authority, banking partners or an authority overseeing banking or remittance transactions, provided such amendment or update does not adversely impact Customer's normal business operations and, in such an event, Customer shall have the option to reject such amendment or update, in good faith, within thirty (30) days of receipt of notice of such amendment or update by providing written notice to UKG. In the event Customer rejects an amendment or update to the terms of this Exhibit and such rejection materially inhibits or prohibits UKG's ability to perform the Payment Services or ACA Services (or any portion thereof), UKG shall have the option to terminate the Payment Services (or any portion thereof) upon written notice to Customer.

Customer agrees to promptly and accurately perform its responsibilities as set forth in this Exhibit and acknowledges that failure to do so may result in additional fees or costs to Customer, including in the event that UKG is required to expedite processes and/or perform additional work on behalf of Customer in order to meet regulatory requirements. Any such additional charges will be performed at the applicable hourly rate per hour which shall be billed as incurred. UKG shall provide Customer with ten (10) days advance written notice of its intent to charge such additional fees and/or costs, and Customer shall have the opportunity to cure same during such ten (10) day period.

5. Data Retention

Customer agrees that UKG will retain Customer's wage and tax data as applicable subsequent to the date of termination of this Agreement for the purposes of responding to tax notices, preparation of amended payroll tax returns or similar matters applicable to the Payment Services term provided by UKG for a term not to exceed four (4) years from the date of termination.

Any sections of this Agreement which expressly survive termination of this Agreement, or which, by their nature, should reasonably survive termination of this Agreement, shall survive.

6. Services

A. General

UKG is not obligated to commence providing the Payment Services and is not obligated to pay Customer's Payroll Liabilities for any payroll check date, until UKG has received all information and funding necessary to disburse all applicable Payroll Liabilities.

UKG is not responsible for any pre-existing errors or similar matters arising prior to commencement of the Payment Services by UKG or for any errors that may occur in the event the Customer fails to (i) provide UKG with all necessary, complete, and accurate information or (ii) fund the relevant amount of Payroll Liabilities for any payroll check date.

In addition to, and not in limitation of UKG's other rights hereunder, in the event that Customer fails to materially comply with its obligations under this Exhibit, UKG may elect to terminate performance of the Payment Services (or any portion thereof) upon written notice to Customer. UKG shall provide Customer an opportunity to cure such failure that is capable of cure within thirty (30) days of Customer's receipt of written notice or such lesser period to the extent that such failure materially inhibits or prohibits UKG's ability to perform the Payment Services or ACA Services (or any portion thereof).

B. Tax Filing Services

Through the Tax Filing Services, UKG will, in accordance with the terms of this Exhibit:

- i. Prepare, deposit and file Customer's Payroll Tax Liabilities for those federal, provincial, state, and local jurisdictions listed by Customer on the company profile report (provided with the standard company set up package) and any updates provided to UKG by the Customer.
- ii. Prepare a quarterly tax statement for each Federal Employer Identification Number (FEIN). This statement will include a summary of tax liabilities reported throughout the quarter, and account reconciliation and printed returns filed at quarter-end .
- iii. Answer tax agency correspondence for tax deposits and returns filed by UKG.
- iv. File amended returns including W-2Cs as required for returns processed under this Exhibit by UKG.
- v. Provide W2 agency filings.

C. Tax Information Acknowledgment:

As required by the Internal Revenue Service, the following information must be disclosed to taxpayers that utilize a third party to perform tax filing services on its behalf:

Customer acknowledges that it is responsible for the timely filing of employment tax returns and the timely payment of employment taxes for its Customer Payees, notwithstanding that Customer has authorized UKG to file the returns and make the payments on its behalf.

The Internal Revenue Service recommends enrollment in the EFTPS to monitor your account and ensure that timely tax payments are being made. Enrollment in the EFTPS may be done online at www.eftps.gov, or call (800) 555-4477 for an enrollment form. State tax authorities generally offer similar means to verify tax payments. Contact the appropriate state offices directly for details.

D. Garnishment Disbursement Services – U.S. only

Through the Garnishment Disbursement Services, UKG will remit Customer's Garnishment Liabilities for those federal, state, and local payment processing units and any individual third party(ies) to which an employee of Customer owes a debt and has agreed or is compelled by requisite governmental authority to resolve via garnishment of employee's wages. UKG will make available a report of garnishment activity to Customer summarizing funds collection and disbursement transactions completed for the designated payroll check date(s).

UKG is not responsible for providing additional administrative services, including, but not limited to, agency research, account reconciliation, garnishment data input and adjustments. Customer is solely responsible for the setup of the garnishment requirements in the UKG Pro Applications in accordance with the UKG Pro Online Documentation and UKG is not responsible for same.

Customer will not set up Voluntary Deductions for payment through UKG's Garnishment Disbursement Services.

E. Print Services

1. Check Print

UKG will print Customer's United States checks and/or Direct Deposit Advices ("DDA's") on a per Check Print Request (defined as a group standard check export files from the Application uploaded together into one request) basis and deliver or mail as requested by Customer. United States checks or DDA's will be processed separately. The printing and distribution of any DDA will be performed for an additional fee per DDA printed.

Standard Printing – For each Check Print Request that is received by 3:00PM in Customer's time zone UKG will use commercially reasonable efforts for such request to be printed and shipped within the next business day. Each check export file received after 3PM in the Customer's time zone will be printed and shipped within two (2) business days.

Expedited Printing – Upon Customer's request, UKG shall make commercially reasonable efforts to expedite a Check Print Request that is received by 12:00PM in Customer's time zone to be printed and shipped the same business day for an applicable fee per Check Print Request. Check export files received after 12:00PM in Customer's time zone cannot be expedited. Any expedited Check Print Request that is not shipped the same business day will not be charged the expedited fee.

Customer will provide the check export file to UKG via the standard delivery methodology as required by UKG. Customer acknowledges that the data and all information from the completed payroll from UKG will be the basis for the Check Print services as provided for herein.

Print Handling/Split Package - No charge for first five (5) splits, the price is per split thereafter per print request.

2. Year End Tax Forms

UKG will be responsible for printing W-2 or 1099 forms for Customer as applicable. UKG will supply the form and Customer will be responsible for shipping costs. Customer will also be responsible for UKG's then-current handling fees.

3. Print Shipping

UKG shall be responsible for delivering printed documents with the carriers set forth below, as specified by Customer.

First Class Mail (Direct mail to employees)

UPS - Next Day Air & 2nd Day Air, Ground(Tax Forms ONLY)

FedEx - Next Day Air & 2nd Day Air

Customer shall have the option to use their own Fed Ex or UPS account number.

Customer is responsible for all shipping charges, whether billed by UKG as a pass through expense or direct billed to Customer via its own carrier.

For the purposes of this section, printing and delivery are applicable to business days only (excluding UKG holidays). Print Requests received by UKG on a non-business day or an UKG holiday shall be deemed to have been received on the following business day. Also customer time zone shall be deemed the customer's main location within the 48 contiguous states, within the United States.

- 4.** Additional services outside the scope of this Print Services section, including, but not limited to, pay group setup, component company setup, bank setup, signature, logo, custom setup, missing and/or incorrect information, and return package, will be provided upon Customer request and billed at the then current rate as incurred.

F. ACA Toolkit and Distribution Services ("ACA Services")

ACA Toolkit - Included for all customers at no additional cost:

- Eligibility 'lookback' calculations based upon payrolls processed with the UKG Pro Applications.
- Enrollment based on eligibility
- Post exchange notices to employee document area
- Obtain and track employee consent to view 1095-C forms electronically
- Generate completed 1094-C and 1095-C forms
- Import template for 1095-C data (if not available in UltiPro)
- Generate required 1095-Cs for those who are not active employees (i.e., COBRA, retirees)
- Download 1095-C via employee self service
- Generate electronic file in IRS approved format
- Self Service printing and distribution of 1095-C forms
- Self Service electronic filing to the IRS
- Comprehensive reporting and access to data about eligibility, penalty exposure, and offer of coverage

ACA Data Remittance

Customer will provide the required ACA data needed for 1094-C and 1095-C forms to UKG pursuant to the ACA standard guidelines. Customer acknowledges that (i) the ACA data and all ACA information contained in and generated from the UltiPro Software will be the basis for the services as provided for herein, and (ii) Customer is required to approve the ACA data on an annual basis in accordance with the deadlines set forth in the ACA Toolkit and provided in writing to Customer via newswire to Customer's designated representative.

ACA Distribution Services

- UKG printing 1095-C forms and mailing them to Customers' employees will follow the same description of services as the Year End Tax Forms section above. Customer is responsible for the cost of shipping and handling.
- Electronic filing of 1094-C and 1095-C forms to the IRS on Customer's behalf

Assumptions:

- Data included in the healthcare measurement periods for the eligibility "lookback" calculations will begin with the first payroll processed using the UKG Pro Applications. Data converted from legacy systems is not available for eligibility "lookback" purposes.

- Prior to performing the ACA Distribution Services, Customer must provide UKG all required ACA data related to 1094-C and 1095-C forms and such data must be entered into and validated within the UKG Pro Applications.
- UKG will not be liable for any invalidity or inaccuracy caused by Customer unless Customer so notified UKG within three (3) business day of UKG making available to Customer any and all ACA regulatory forms and filings. Customer will examine them for their validity and accuracy according to Customer's records. Customer will immediately notify UKG of any inaccuracies.
- Customer is responsible for all shipping charges, whether billed by UKG as a pass through expense or direct billed to Customer via its own carrier. Customer shall have the option to use their own Federal Express or United Parcel Services account number.

ATTACHMENT C – COST PROPOSAL

<i>SECTION A Discount by Category</i>			
DESCRIPTION OF PRODUCT/SERVICE	Discount %		
<i>*EE = Employee Count</i>			
Discounts			
Software			
Discount for Workforce Dimensions	<2,499ee	2,500-4,999ee	>5,000ee
Workforce Dimensions	40%	45%	50%
Discount for Workforce Ready	All EE Counts		
Workforce Ready	37%		
Discount for UKG Pro	All EE Counts		
UKG People, Pay & Benefits Center Bundle	0-10%		
UKG Pro Talent Acquisition & Development Bundle	0-10%		
Tiered Discounts for Workforce Central/Telestaff (SaaS)	<2,499ee*	2,500-4,999ee	>5,000ee
Workforce Central	48%	52%	56%
Telestaff	48%	52%	56%
Teletime	48%	52%	56%
Tiered Discounts for Workforce Central/Telestaff (Perpetual)	<4,999ee*	5,000-9,999ee	>10,000ee
Workforce Central	39%	41%	43%
Workforce Telestaff	39%	41%	43%
Workforce Timelink	39%	41%	43%
Aspect Voxeo Core (plus 1% discount on Monthly Usage)	39%	41%	43%
Discount for Workforce Teletime (Perpetual)	All EE Counts		
Workforce Teletime	10%		
Discount for Equipment (Discounts are based on # of Terminals per transaction)	1-24 Terminals	24-49 Terminals	50 + Terminals
Equipment/Equipment Options (Purchase and Rental)	27%	32%	36%
Professional Services	10%		
Premium Success Offering and Client Partnership Services	0%		
Training	0%		
Cloud Hosting Services	0%		
Maintenance	Software	Hardware	
Annual Support/Maintenance Year 1	Gold Support: Included Platinum Support: Included	Depot Exchange \$285/Terminal Depot Repair \$210/Terminal	
Annual Support/Maintenance Year 2	Gold Support: 22% of SW selling price Platinum Support: 25% of SW selling price	Year 1 Plus 4%	
Annual Support/Maintenance Year 3	Year 2 Plus 4%	Year 2 Plus 4%	
Annual Support/Maintenance Year 4	Year 3 Plus 4%	Year 3 Plus 4%	
Annual Support/Maintenance Year 5	Year 4 Plus 4%	Year 4 Plus 4%	

Discounts for volume (i.e. price breaks for number of employees, etc.)	To be discussed during contract negotiations		
Any additional pricing incentives, discounts or rebates such as for large volume purchases, bundled services, etc.)			

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COST PROPOSAL FORM (CONT'D)	
SECTION B	
Sample Pricing Scenario	
Provide itemized costs for all items necessary to perform work in the Sample Pricing Scenario described below.	
DESCRIPTION OF PRODUCT/SERVICE	COST
<i>(Insert additional lines as appropriate to adequately itemize all costs.)</i>	
Software	
5,0000 Workforce Dimensions Hourly Timekeeping (Standard License)	\$300,000 Annually
5,000 Workforce Dimensions Leave (Standard License)	\$60,000 Annually
Hardware	
5 – KRONOS INTOUCH H4 Standard Enclosure, with Bar Code Badge Reader	\$13,121.75
Implementation	
	\$250,000
Training	
	\$31,185
Training (daily rate)	
Other Costs:	
Maintenance for Hardware Year 1 (Depot Exchange)	\$1,425
Total	\$655,731.75

1. Travel expenses will be charge separately as per our proposed terms; and
2. Payment methods and terms are set out in the proposed terms and conditions provided in the Technical Proposal.

Sample Pricing Scenario

BACKGROUND DESCRIPTION: A County has 5000 employees with 50 locations/buildings. IT technicians service five locations each. With no physical base location, they report directly to one of their five service areas, and will typically report to 3-5 of these locations. These employees shall be able to report, or “clock-in” and “clock-out” from multiple work locations within the County. They shall be able to tend to related HR functions, such as request leave and verify pay period attendance from multiple locations.

Purpose: The objective is to determine the feasibility of using a third party system as a Time and Attendance solution that will satisfy the needs of this County. We are seeking a complete solution that will both accommodate and improve upon our business processes.

Hardware: Proposals shall include the cost of hardware necessary (punch terminals, swipe terminals, etc.) to support touch screen technology, biometric technology, and badge swipe technology for employees to “clock in” or “clock out” at 50 locations. Proposals shall include a full description of the hardware proposed,

as well as all related cabling costs. Proposals shall include the option for employees to “clock in” or “clock out” at multiple work locations in the County.

Offeror shall provide a detailed list of all costs associated with the Sample Pricing Scenario on the Cost Proposal Form. **All pricing submitted must be inclusive of all fees and service charges.**

CONTRACT AMENDMENT #3
Sealed Bid # 18-6390
Contract #18220

Date of Amendment: December 10, 2021

Owner: Cobb County Board of Commissioners. Cobb County, Georgia
Contractor: Kronos Incorporated
Project: Bid # 18-6390, Workforce Management Systems and Related Products, Services and Solutions

Current Contract Term: March 18, 2019 to March 17, 2022

This action amends the current contract dated March 18, 2019, for Sealed Bid # 18-6390. It is valid when signed by both the Owner and Contractor. The signature of the Contractor indicates his/her agreement herewith, including any adjustments in the contract pricing, contract term, or contract scope.

Contract Extension

The County will exercise its option to extend the current contract for an additional one-year period. The effective date of the contract extension will commence on March 18, 2022 and end on March 17, 2023.

ACCEPTED - The above listed terms and conditions of this Amendment are satisfactory and are hereby accepted.

OWNER

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, Georgia 30090

Signed: _____

Title: Purchasing Director

Date: 12/15/2021

CONTRACTOR

Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

Signed: Nicole Dandurant

Title: Order Processing Analyst

Date: 12/14/2021 | 11:37 AM EST