

WORKFORCE CENTRAL - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

City and County of Denver (“Customer” or “City”) and **Kronos Incorporated** (“Kronos”), whose address is 900 Chelmsford Street, Lowell, MA 01851, agree that the terms and conditions set forth below (“Agreement”) 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. In addition to this Agreement, supplemental terms and conditions shall be incorporated into this Agreement and shall be referred to as “City Terms”. City Terms may complement, enhance or conflict with this Agreement, and in the event of a conflict or inconsistency as between this Agreement and the City Terms, the City Terms shall have precedence and shall prevail.

Kronos and Customer hereby further agree that Kronos and/or its direct and indirect majority owned subsidiaries may enter into orders with Customer and/or its direct and indirect majority owned subsidiaries subject to the terms and conditions of this Agreement. By signing and entering into an Order Form that expressly references this Agreement, each such subsidiary of Kronos and/or Customer will be deemed to have agreed to be bound by the terms and conditions of this Agreement and all references in this Agreement to “Kronos” shall be references to the applicable Kronos entity entering into the order, and all references in this Agreement to “Customer” shall be references to the applicable Customer entity entering into the order.

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 these terms and conditions, City Terms 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>

“Confidential Information” means any non-public information of a party or its Suppliers relating to such entity’s business activities, financial affairs, technology, marketing or sales plans that is disclosed pursuant to this Agreement and reasonably should have been understood by the receiving party, because of (i) legends or other markings, (ii) the circumstances of disclosure or (iii) the nature of the information itself, to be proprietary or confidential to the disclosing party or its Suppliers.

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

“Documentation” means user manuals published by Kronos relating to the features and functionality of the 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: <https://www.kronos.com/wfc-saas-implementation-guideline-details-flat-fee>

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

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

“Minimum Contract Value” means the total of the annual appropriation (i.e., 12 months of Monthly Service Fees) for the Service acquired under this Agreement, as applicable.

“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, 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.

“Renewal Term” means the renewal billing 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. Kronos may at its sole discretion replace a Supplier, provided that a change to Supplier will not have a materially adverse effect on the Services delivered by Kronos under this Agreement.

“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. The Initial Term shall be for five (5) years and may be renewed for additional one (1) years terms by the parties upon mutual agreement in writing.

2.2 Customer may terminate the Services and this Agreement for convenience upon sixty (60) days prior written notice subject to Customer’s payment of the Minimum Contract Value. 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 uncontested 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 thirty (30) 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, subject to the City Terms concerning payment. 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. All other Kronos service 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 35 days following date of invoice. All payments shall be sent to the attention of Kronos as specified on the invoice. Kronos shall provide the City the invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement. Except as expressly set forth in this Agreement, all amounts paid to Kronos are non-refundable.

3.2 If any uncontested amount owing under this or any other agreement between the parties is thirty-five (35) 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 later 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.

3.4 Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **THREE MILLION SEVEN HUNDRED AND THIRTEEN THOUSAND FIVE HUNDRED AND FIFTY DOLLARS** (\$3,713,550.00) (the “Maximum Contract Amount”). The City is not obligated to execute an agreement or any amendments for any further services, including any services performed by Kronos beyond that specifically described in the attached Order Forms. Any services performed beyond those in attached Order Forms are performed at Kronos’s risk and without authorization under this Agreement. The City’s payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

3.5 Customer agrees that except if Customer terminates the Agreement for material breach by Kronos, Customer shall not receive any refund of any prepaid annual Monthly Services Fees.

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.

4.6 Kronos shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

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 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, networking, internet access, third party services and related equipment and components;); and (b) to the extent required for purposes of providing software support to Customer and at Customer's prior request and at Customer's direction, 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 an 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 flat 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 all necessary and accurate 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, Customer agrees to pay any travel expenses, such as airfare, lodging, meals and local transportation incurred by Kronos in accordance with the then-current standard Kronos travel and expense policies, which Kronos will provide to Customer upon request and provided that said expenses are agreed to in writing prior to being incurred. Kronos shall invoice Customer for such travel expenses and payment thereof shall be due net thirty-five (35) days from date of invoice. Kronos' then-current Professional/Educational Services Policies shall apply to all Implementation Services provided by Kronos 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.

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 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 perform in accordance with the Kronos published specifications in all material respects 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, and with title passing upon delivery to the identified destination. 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 (i.e., not indicated as “Included” in the Monthly Service Fees), Kronos will provide Customer with the KnowledgePass Education Subscription for a period of one (1) year from execution of the Order Form. Kronos will send Customer a renewal invoice for renewal of the KnowledgePass Education Subscription, and the KnowledgePass Education Subscription shall renew for an additional one (1) year term if Customer pays such invoice before the end of the then-current term for 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**” are points which are purchased by Customer that may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Training Points may be redeemed only during the Term but only prior to the date which is no more than twelve (12) months after the date of the Order Form pursuant to which the Training Points were acquired, 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 a reasonable number of 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. 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.

9. EQUIPMENT

If Customer purchases or rents Equipment from Kronos, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.

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. Customer’s self-insurance is acceptable. 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. Subject to applicable state and federal law, Kronos shall have the right to enter Customer’s premises to inspect the Equipment during normal business hours and shall seek prior permission for any secured areas. 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) Title and Warranty Period. When the Order Form indicates FOB – Shipping Point, title to the Equipment passes to Customer upon delivery to the carrier; for all other shipping terms, title passes upon delivery to Customer. The “**Warranty Period**” for the Equipment shall be for a period of one year 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 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 SERVICES OR FAILURE BY KRONOS TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT A.

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, as configured by Kronos at the direction of Customer, 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 Term, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Agreement and receive a refund of any prepaid and unused fees 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, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT MAY OTHERWISE ARISE PURSUANT TO ANY STATUTE, CODE, COMMON LAW OR JUDICIAL DECISION. 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, and processing 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, which shall not include any release of Customer Content that would necessitate a legally mandated notification.

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.

12.4 *SEE CITY FORM FOR ADDITIONAL TERMS AND CONDITIONS.*

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 Kronos will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys’ fees) incurred or 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 Services covering the period of their unavailability and through the end of the period for which payments were made. Kronos hereby agrees to release, indemnify and save harmless the Customer, its officers, agents and employees from and against any and all claims for loss of, or damage to, tangible property, or injuries to, or death of, any person or persons and employees or agents of the Customer; provided however, that Kronos need not indemnify or save harmless the Customer, its officers, agents and employees, from liability or damages to the extent caused by the negligence of the Customer’s officers, agents and employees. Kronos’s obligation to indemnify or hold harmless the City, its officers, agents and employees under this paragraph shall not apply to liability or damages proximately caused by and apportioned to the negligence of the City’s officers, agents and employees. This indemnity clause shall also cover the City’s defense costs, in the event that the City, in its sole discretion elects to provide its own defense. The City retains the right to disapprove counsel, if any, selected by Kronos to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Kronos under the terms of this indemnification obligation. Kronos shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection in the performance of this Agreement.

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 or its contractors; (b) use of the Applications 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.

13.3 Without waiving any of its rights or immunities under the Colorado Governmental Immunity Act, where an action is brought against the Customer, the Customer will defend Claims arising out of: (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. 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

13.4 The Indemnified Party 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, 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 THREE TIMES 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, 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, 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 BREACH OF THE AGREEMENT, 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.

15. CONFIDENTIAL INFORMATION

15.1 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 the other Party's Confidential Information, or use it for any purpose not explicitly authorized herein, without the prior written consent of the other Party. The obligation of confidentiality shall survive for five (5) years after the return of such Confidential Information to the disclosing party or five (5) years after the expiration or termination of the Agreement, whichever is later, as applicable. Notwithstanding anything herein to the contrary, each party acknowledges and agrees that all trade secrets shall be safeguarded by a receiving party as required by this Agreement for so long as such information remains a trade secret pursuant to applicable law.

15.2 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 have executed a non-disclosure agreement with obligations at least as stringent as this Section 15, or (c) by law, 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 15, the other party shall have the right to seek injunctive relief from a court of competent jurisdiction.

15.3 This Agreement imposes no obligation upon either Party with respect to the other Party's Confidential Information which the receiving Party can establish: (a) is or becomes generally known through no breach of the Agreement by the receiving party, or (b) is already known or is independently developed by the receiving party without use of or reference to the Confidential Information.

16. EXPORT

Customer understands that any export of the Equipment may require an export license and Customer assumes full responsibility for obtaining such license. Customer must obtain Kronos' prior written consent before exporting the Equipment.

17. GENERAL

17.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. 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 the Agreement and waive and "opt out" of the Uniform Computer Information Transactions Act (UCITA), or such other similar law.

17.2 EXAMINATION OF RECORDS: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of Kronos, as such books, documents, papers and records relate to the payments made by the City under the Agreement, until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

17.3 Customer shall not assign the Agreement or the rights to use the Services without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.

17.4 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**").

17.5 All disputes between the City and Kronos arising out of or regarding the Agreement will first be resolved informally through an escalation process between the parties and then, if such informal resolution process fails to resolve the dispute, the dispute may be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Manager as defined in this Agreement.

17.6 Kronos consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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

17.8 The parties agree that if the Agreement is accepted by the parties and that acceptance is delivered via fax or electronically delivered via email or the internet it shall constitute a valid and enforceable agreement.

17.9 This Agreement and any information expressly incorporated by reference herein, together with the applicable Order Form, constitute the entire agreement between the parties for the 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 Service or product development direction, potential future Services, products or product enhancements under consideration, Customer is not entitled to any Services, 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 Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing the Agreement.

17.10 Kronos shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of Kronos' advertising or public relations materials without first obtaining the written approval of the Manager. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. Kronos shall notify the Manager in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

18. INSURANCE:

1.1 General Conditions: Kronos agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Kronos shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII or better. Kronos shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within ten (10) business days of such notice by its insurer(s) and referencing the City's contract number. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Kronos. Kronos shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

1.2 Proof of Insurance: Kronos may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Kronos will provide evidence of insurance coverage prior to commencing work and once annually upon written request by the City. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Kronos' breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements, in the event a claim is filed under this Agreement.

1.3 Additional Insureds: For Commercial General Liability, Auto Liability, Kronos shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

1.4 Waiver of Subrogation: For Commercial General Liability and Automobile Liability, Kronos' insurer shall waive subrogation rights against the City.

1.5 Subcontractors and Subconsultants: All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services on behalf of Kronos and as required by this Agreement) shall be subject to all of the requirements

herein and shall procure and maintain the same coverages required of Kronos. Kronos shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Kronos agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

- 1.6 Workers' Compensation/Employer's Liability Insurance: Kronos shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- 1.7 Commercial General Liability: Kronos shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- 1.8 Business Automobile Liability: Kronos shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
- 1.9 Technology Errors & Omissions: Kronos shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate.
- 1.10 Additional Provisions:

For Commercial General Liability, the policy must provide the following:

A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

For claims-made coverage:

The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

19. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Kronos at the address first above written, and if to the City at:

Chief Information Officer or Designee
201 West Colfax Avenue, Dept. 301
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom

notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

20. In connection with the performance of work under this contract, Kronos may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. Kronos shall insert the foregoing provision in all subcontracts.

21. The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District. Kronos shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

22. Kronos lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

23. In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

24. This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.

25. CONFLICT OF INTEREST:

25.1 No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. Kronos shall not intentionally hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

25.2 Kronos shall not knowingly engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. Kronos represents to the best of its knowledge that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Kronos by placing Kronos' own interests, or the interests of any party with whom Kronos has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given Kronos written notice describing the conflict.

The attached Exhibits are incorporated herein.

SIGNATURES BELOW

CITY TERMS

THESE CITY TERMS form a part of that Agreement between the City and County of Denver and Kronos under city contract number 201841702.

1. **DEFINITIONS.** Whenever used herein the following terms shall have the meanings assigned below. Other capitalized terms used in this Agreement are defined in the context in which they are used. In the event that a defined term used in the Workforce Central defined Terms and Conditions conflicts with the City Terms, the definition found in each particular section have a prevailing meaning.

1.1 ***“Data Breach”*** means any actual unauthorized access to or acquisition of computerized Customer Content that compromises the security, confidentiality or integrity of unencrypted Protected Information or of Customer Content, or the ability of City to access the Customer Content.

1.2 ***“Protected Information”*** includes but is not limited to personally-identifiable information, (collectively, “Protected Information”) that is subject to local, state or federal statute, regulatory oversight or industry standard restricting the use and disclosure of such information and that the loss of such Protected Information would constitute a direct damage.

1.3 ***“Third Party Host”*** means the physical location and co-location provider where Kronos servers and software resides which is not controlled by Kronos, sometimes called “managed hosting”, or “co-location”, for example, Amazon Web Service.

2. **RIGHTS AND LICENSE IN AND TO DATA**

2.1 The parties agree that as between them, all rights, in and to Customer Content shall remain the exclusive property of City, and Kronos has a limited, nonexclusive license to access and use these Customer Content as provided in this Agreement solely for the purpose of performing its obligations hereunder.

2.2 All Customer Content created and/or processed by the Kronos Application(s) is and shall remain the property of City and shall in no way become attached to the Kronos Application(s), nor shall Kronos have any rights in or to the Customer Content unless otherwise stated herein.

2.3 City retains the right to use the Kronos Application(s) to access and retrieve Customer Content stored on Kronos’ private cloud at any time at its sole discretion and during the term of the Agreement.

3. **DATA PRIVACY**

3.1 Kronos will use Customer Content only for the purpose of fulfilling its duties under this Agreement and for City’s and its employees’ sole benefit and will not

share such data with or disclose it to any Third Party without the prior written consent of City or as otherwise required by law.

- 3.2 Kronos will provide access to Customer Content only to those Kronos employees, contractors and subcontractors (“Kronos Staff”) who need to access the Customer Content to fulfill Kronos’ obligations under this Agreement. Kronos will ensure that any onsite Implementation Services resources that will be providing services to the City at its facility, will have undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees’ duties and the sensitivity of the data they will be handling.

4. DATA SECURITY AND INTEGRITY

- 4.1 In the event that the Kronos Applications(s) is provided with a Third Party Host, Kronos shall not be relieved of the obligations in Sections 4, 6, 7 and 8, under this Agreement.
- 4.2 All facilities, whether Kronos hosted or Third Party Hosted, used to store and process Customer Content will implement and maintain administrative, physical, technical, and procedural safeguards and best practices at a level sufficient to provide the requested Service availability and to secure Customer Content from unauthorized access, destruction, use, modification, or disclosure. Kronos warrants that all Customer Content will be encrypted in transmission (including via web interface) and in storage by the current industry methods and standards.
- 4.3 Kronos shall at all times use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to anti-virus and anti-malware protections and intrusion detection and reporting in providing Services under this Agreement.
- 4.4 Prior to the effective date of this Agreement, Kronos or Third Party Host, will at its expense conduct or have conducted the following, and thereafter, Kronos, or Third Party Host, will at their expense conduct or have conducted the following at least once per year, and at Kronos’ sole discretion, immediately after any actual or reasonably suspected Data Breach:
 - 4.4.1 A SSAE 18/SOC 2 or other mutually agreed upon audit of Kronos’ security policies, procedures and controls;
 - 4.4.2 A quarterly vulnerability scan of Kronos’ systems and facilities, to include public facing applications of Customer, that are used in any way to deliver Services to Customer under this Agreement. Customer shall have the right to request a quarterly attestation/bridge letter to confirm controls are in place and operating effectively;

- 4.4.3 A formal penetration test, performed by a process and qualified personnel, of Kronos' systems and facilities that are used in any way to deliver Kronos Application(s) under this Agreement.
- 4.5 Kronos will provide City the SOC audit reports resulting from the above audits, upon request. City may also request an executive summary of the annual penetration test and find verification of vulnerability scanning in the annual SOC 2 Type II report.
- 4.6 Based on the results and recommendations of the above audits, certifications, scans and tests, Kronos will, upon receipt of such results, promptly modify its security measures in order to meet its obligations under this Agreement.

5. RESPONSE TO LEGAL ORDERS, DEMANDS OR REQUESTS FOR DATA

- 5.1 Except as otherwise expressly prohibited by law, Kronos will:
 - 5.1.1 If required by a court of competent jurisdiction or an administrative body to disclose Customer Content, Kronos will notify City in writing immediately upon receiving notice of such requirement and prior to any such disclosure;
 - 5.1.2 Consult with City regarding its response;
 - 5.1.3 Cooperate with City's reasonable requests in connection with efforts by City to intervene and quash or modify the legal order, demand or request; and
 - 5.1.4 Upon City's request, provide City with a copy of its response.
- 5.2 If City receives a subpoena, warrant, or other legal order, demand or request seeking Customer Content maintained by Kronos, City will promptly provide a copy to Kronos. Kronos will supply City with copies of Customer Content required for City to respond within forty-eight (48) hours after receipt of copy from City, and will cooperate with City's reasonable requests in connection with its response.

6. DATA BREACH RESPONSE

- 6.1 Kronos shall report, either orally or in writing, to City any Data Breach involving Customer Content, or circumstances that results in unauthorized access to or disclosure or use of Customer Content, not authorized by this Agreement or in writing by City. Kronos shall make the report to City immediately upon discovery of the unauthorized disclosure, but in no event more than forty-eight (48) hours after Kronos reasonably believes there has been such unauthorized use or disclosure. Oral reports by Kronos regarding Data Breaches will be reduced to writing and supplied to City as soon as reasonably practicable, but in no event more than forty-eight (48) hours after oral report.

- 6.2 Immediately upon becoming aware of any such Data Breach, Kronos shall fully investigate the circumstances, extent and causes of the Data Breach, and report the results to City and continue to keep City informed on a daily basis of the progress of its investigation until the issue has been effectively resolved.
- 6.3 Kronos' report discussed herein shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Customer Content used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure (if known), (iv) what Kronos has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Kronos has taken or shall take to prevent future similar unauthorized use or disclosure.
- 6.4 Within a reasonable time after the date Kronos becomes aware of any such Data Breach, Kronos shall complete implementation of corrective actions to remedy the Data Breach, restore City access to the Kronos Application(s) as directed by City, and prevent further similar unauthorized use or disclosure.
- 6.5 Kronos, at its expense if the Data Breach was caused by Kronos, shall cooperate with City's investigation of and response to any such Data Breach incident.
- 6.6 Except as otherwise required by law, Kronos will not disclose or otherwise provide notice of the incident directly to any person, regulatory agencies, or other entities, without prior written permission from City.
- 6.7 Notwithstanding any other provision of this Agreement, to the extent a Data Breach occurs solely caused by a breach of the Agreement by Kronos or Kronos' negligence, Kronos agrees that it shall reimburse the City the following costs paid by the City in the event of Data Breach: Kronos shall be liable for paying for the following costs to remediate, as a required by applicable laws, any such unauthorized disclosure:

(i) the reasonable cost of providing notice of the breach to individuals affected by such breach as required by applicable law, the parties acknowledging that express courier service is not reasonable in this context;

(ii) the reasonable cost of providing required notice of the Data Breach to government agencies, credit bureaus, and/or other required entities as required by applicable law;

(iii) the cost of providing individuals affected by such breach with credit protection services designed to prevent fraud associated with identity theft crimes for a period not to exceed 12 months, to the extent the misuse or disclosure of the affected individual's personally identifiable data could lead to a compromise of the data subject's credit or credit standing and as required by applicable law.

In each case, to the extent the Data Breach is caused in part by City, the damages described above will be apportioned between Kronos and City on a comparative fault basis.

- 6.8 The preceding requirements of this Section 6 are applicable to Kronos and the Kronos Application(s) to the extent Kronos maintains control over the Service and the software and the requirements are not in violation of the agreement between Kronos and the Third Party Host.

7. DATA RETENTION AND DISPOSAL

- 7.1 Kronos will retain Customer Content for a period not to exceed thirty (30) days following termination of this Agreement.
- 7.2 Using appropriate and reliable storage media, Kronos will regularly backup Customer Content.
- 7.3 At the City's election, Kronos will either securely destroy or transmit to City repository any backup copies of City Customer Content. Kronos will supply City a certificate indicating the records disposed of, the date disposed of, and the method of disposition used.
- 7.4 Kronos will immediately preserve the state of the Customer Content at the time of the request and place a "hold" on Customer Content destruction or disposal under its usual records retention policies of records that include Customer Content, in response to an oral or written request from City indicating that those records may be relevant to litigation that City reasonably anticipates. Oral requests by City for a hold on record destruction will be reduced to writing and supplied to Kronos for its records as soon as reasonably practicable under the circumstances. City will promptly coordinate with Kronos regarding the preservation and disposition of these records. Kronos shall continue to preserve the records until further notice by City. Notwithstanding the above, Kronos will destroy all Customer Content thirty (30) days after termination if a request to "hold" is not received.

8. DATA TRANSFER UPON TERMINATION OR EXPIRATION

- 8.1 Upon termination or expiration of this Agreement, Kronos will provide access to Customer Content to securely be downloaded by the City, or a Third Party designated by City, within thirty (30) calendar days. Kronos will ensure that such migration uses facilities and methods that are compatible with MS SQL database, and that City will have access to Customer Content during the transition for up to thirty (30) days.
- 8.2 Kronos will provide City with no less than ninety (90) calendar days' notice of impending cessation of its business or that of any subcontractor and any contingency plans in the event of notice of such cessation.
- 8.3 Kronos will provide infrastructure recommendations for on-premise deployment including configuration of servers, routers, other hardware, and software involved in an on-premise deployment along with supporting documentation.

8.4 Provided that City has paid all outstanding fees due to Kronos under this Agreement, Kronos will reasonably cooperate and assist City with migrating the Customer Content from the Kronos private cloud. The parties shall execute a mutually agreed upon Kronos SOW and Order Form and the services to provide the transition assistance shall be delivered on a time and materials basis. Kronos shall implement its contingency and/or exit plans and take all necessary actions to provide for an effective and efficient transition of service with minimal disruption to City. Kronos will work closely with its successor to ensure a successful transition to the new service and/or equipment, with minimal Downtime and effect on City.

9. **PROTECTED INFORMATION.** During the course of this Agreement, should Kronos come into possession of any Protected Information, Kronos may not disclose this information to any Third Party under any circumstances, unless required by the Agreement and shall take all commercially necessary steps to protect the information from release.

10. **SOFTWARE AS A SERVICE, SUPPORT AND SERVICES TO BE PERFORMED:**

10.1 **User ID Credentials.** Internal corporate or customer (tenant) user account credentials shall be restricted as per the following, ensuring appropriate identity, entitlement, and access management and in accordance with established policies and procedures:

- a) Identity trust verification and service-to-service application (API) and information processing interoperability (*e.g.*, SSO and Federation)
- b) Account credential lifecycle management from instantiation through revocation
- c) Account credential and/or identity store minimization or re-use when feasible
- d) Adherence to industry acceptable and/or regulatory compliant authentication, authorization, and accounting (AAA) rules (*e.g.*, strong/multi-factor, expire able, non-shared authentication secrets)

10.2 **Vendor Supported Releases.** Kronos shall maintain the currency all third-party software used in the development and execution or use of the software including, but not limited to: all code libraries, frameworks, components, and other products (*e.g.*, Java JRE, code signing certificates, .NET, jquery plugins, etc.), whether commercial, free, open-source, or closed-source; with third-party vendor approved and supported releases.

10.3 **Oracle Identity Management.** The City's Identity and Access Management (IdM) system is an integrated infrastructure solution that enables many of the City's services and online resources to operate more efficiently, effectively, economically and securely. All new and proposed applications must utilize the authentication and authorization functions and components of the IdM. Strong authentication is required for privileged accounts or accounts with access to

sensitive information. This technical requirement applies to all solutions, regardless to where the application is hosted. Kronos will support City IdM solution for web application provided such City's Oracle IdM product supports the SAML 2.0 industry standard for the common features as described in the Kronos product documentation. Kronos will use own IdM solution for its users who access the infrastructure level in Kronos Cloud.

11. SAAS ACCEPTANCE:

For Customer's initial set-up of the Application or Applications, as set forth on the applicable Order Form, Kronos shall provide an acceptance test period (the "Test Period") that commences upon Installation. Installation shall be defined as completion of the following: a.) the equipment (i.e., data collection terminal), if any, is mounted; b.) Customer has access to the Application on Kronos's server(s); c.) Kronos has configured the software Applications for Customer's work and/or pay rules within the software's standard application parameters; d.) standard interfaces are transmitting data; e.) standard application reports can be generated; and f.) implementation team training, if any, is complete. During the Test Period, Customer shall determine whether the Application meets the Kronos published electronic documentation, ("Specifications").

The Test Period shall be for 30 days upon completion of Installation. If Customer has not given Kronos a written deficiency statement specifying how the Application fails to meet the Specifications ("Deficiency Statement") within the Test Period, the Application 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 Application. If the Application does not meet the Specifications at the end of the second 30 day period, either Customer or Kronos may terminate this Agreement, or the order under which the affected Application was purchased. Upon any such termination, Customer shall, if applicable, return all equipment and software (and related documentation) to Kronos as it relates to the affected Application, and Kronos shall refund any Monthly Services Fees paid by Customer to Kronos for the affected Application, including any fees paid for in advance. Neither party shall then have any further liability to the other for the Application that was the subject of the Acceptance Test.

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: TECHS-201841702-00

Contractor Name: KRONOS INCORPORATED

By: 

Name: John O'Brien
(please print)

Title: Chief Revenue Officer
(please print)

ATTEST: [if required]

By: 

Name: Donna Hampson
(please print)

Title: Admin Assistant IV
(please print)



EXHIBIT A

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.



Order Form

Creation Date:	7/26/2018	Expiration Date:	10/24/2018
Prepared By:	Brenda Lyle	Order Type:	Upgrade
Bill To:	Attention: Kevin Anthony City and County of Denver - DOIT 201 W Colfax Ave Denver, CO 80202	Ship To:	Attention: Kevin Anthony City and County of Denver - DOIT 201 W Colfax Ave Denver, CO 80202
Solution ID:	6048342	License Email:	exception@kronos.com
Primary Contact Name:	Kevin Anthony	FOB:	Shipping Point
Primary Contact Phone:	720-913-4885	Ship Method:	Fedex Ground
Primary Contact Email:	kevin.anthony@denvergov.org	Freight terms:	Prepay & Add
Currency:	USD	Payment Terms:	N30
Customer PO#	Please Enter P.O. Number	DataCenter Location:	USA
Initial Term:	60 Months	Kronos Contact Information:	Kronos Incorporated 900 Chelmsford St. Lowell, MA 01851 Telephone # 978-250-9800 Fax # 978-367-5900
Renewal Term:	One Year		
Billing Start Date:	120 Days from execution of Order Form		

PERPETUAL TO SAAS CONVERSION TABLE

Billing Frequency: Monthly (in arrears)

Applications	License Count	PEPM	Monthly Service Fee
Perpetual License to SaaS Conversion Monthly Service Fee	N/A	N/A	\$54,750.00
Workforce Timekeeper	15,000	\$0.00	\$0.00
Workforce Manager	5,000	\$0.00	\$0.00
Workforce Employee	12,500	\$0.00	\$0.00
Workforce Integration Manager	15,000	\$0.00	\$0.00
Workforce Mobile Employee	14,500	\$0.00	\$0.00
Workforce Mobile Manager	5,000	\$0.00	\$0.00
Workforce Enterprise Archive	15,000	\$0.00	\$0.00
Workforce Scheduler	6,500	\$0.00	\$0.00
Workforce Activities	6,000	\$0.00	\$0.00
Workforce Leave	15,000	\$0.00	\$0.00
Workforce Integration Manager V8 to Telestaff	1	\$0.00	\$0.00
Total			\$54,750.00

FUTURE CAPACITY ADD PER EMPLOYEE RATES

For a period of 60 Months from the date of this Order Form, Customer may purchase additional employee capacity for the Applications set forth herein at the following prices:
The costs of any individual Application(s) included in the Timekeeper Bundle (i.e., Workforce Manager) will be set forth on a mutually agreed upon Order Form based on Kronos' then current list price.

Applications	PEPM
Workforce Timekeeper	\$7.97
Workforce Manager	Included
Workforce Employee	Included
Workforce Integration Manager	Included
Workforce Mobile Employee	Included
Workforce Mobile Manager	Included
Workforce Enterprise Archive	\$0.37
Workforce Scheduler	\$2.50
Workforce Activities	\$2.50
Workforce Leave	\$2.00

INCREMENTAL MODULES/CAPACITY ABOVE CONVERTED LICENSE COUNT

Billing Frequency: Monthly (in arrears)

Applications	License Count	PEPM	Monthly Service Fee
Workforce TeleTime IP Base System 5 lines	1	\$3,400.00	\$3,400.00
Workforce TeleTime IP Add'l Line (Lines 6-10)	5	\$150.00	\$750.00
Workforce TeleTime IP Add'l Line (Lines 11+)	17	\$50.00	\$850.00
Total Monthly Application Fee			\$5,000.00

PROFESSIONAL AND EDUCATIONAL SERVICES

Billing Frequency: Monthly in Arrears as Delivered

Professional Services Part # / Description	Hours	Rate	Role	Total Price
9999002-SEV Pro Svcs WFC Upgrade to Cloud Hosting/SaaS Conversion	116	\$0.00	Project Manager	\$0.00
9999002-SEV Pro Svcs WFC Upgrade to Cloud Hosting/SaaS Conversion	68	\$0.00	Integration Consultant	\$0.00
9999002-SEV Pro Svcs WFC Upgrade to Cloud Hosting/SaaS Conversion	140	\$0.00	Technology Consultant	\$0.00
9999002-SEV Pro Svcs WFC Upgrade to Cloud Hosting/SaaS Conversion	68	\$0.00	Solution Consultant	\$0.00
9990002-ENT Paragon Enterprise	187	\$190.00	Technology Consultant	\$35,530.00
9990002-ENT Paragon Enterprise	60	\$185.00	Integration Consultant	\$11,100.00
9990002-ENT Paragon Enterprise	54	\$185.00	Project Manager	\$9,990.00
9990002-ENT Paragon Enterprise	191	\$185.00	Solution Consultant	\$35,335.00
9990113-PRO PROFESSIONAL SERVICES WORKFORCE TELETIME IP	11	\$185.00	Third Party Provider	\$2,035.00
9999913-0 Education Consulting	6	\$190.00	Education Consultant	\$1,140.00
Total Professional Services				\$95,130.00

Billing Frequency: Monthly in Arrears as Delivered

Training	Quantity	Unit Price	Total Price
BAYG-ILT Bill-As-You-Go Instructor Led Training	25,950	\$0.90	\$23,355.00
Total Training			\$23,355.00

SUMMARY

Offering Types	Summary Total
Total Monthly Fee (Applications / Cloud Services / Equipment Rental)	\$59,750.00
Professional & Educational Fees (Time & Materials)	\$118,485.00

Order Notes:

This order is made as part of a Kronos promotion. All pricing is discounted solely in connection with such promotion and will not be applied to future orders. Professional Services concessions valid only for version of Workforce Central Applications stated on this Order Form.

Customer's existing Kronos Workforce Central software will remain in effect and subject to the license and maintenance agreement for such software for a period of ninety (90) days from signature of this document by both parties. The Kronos Workforce Central Software as a Service Terms and Conditions as agreed upon by Customer and Kronos apply to the WFC Applications set forth on this order. As of the Billing Start Date, Kronos will credit any pre-paid but unused fees for support and maintenance for such perpetual software licenses to be applied against amounts owed by Customer to Kronos hereunder until such pre-paid but unused fees are expended.

Future capacity and capacity added above converted license counts will be added via the Timekeeper bundle, which includes: Workforce Timekeeper, Workforce Manager 1:10 Ratio, Workforce Employee, Workforce Integration Manager, Workforce Mobile Employee, Workforce Mobile Manager. The costs of any individual Application(s) included in the Timekeeper Bundle (i.e., Workforce Manager) will be set forth on a mutually agreed upon Order Form based on Kronos' then current list price.

Customer is responsible for procurement of Session Initiation Protocol (SIP) lines for Teletime IP

Customer may migrate from its current Workforce Central SaaS solution to the Workforce Dimensions solution (on a like for like module basis) at any time during the Initial Term of the Workforce Central SaaS agreement by signing a mutually agreed upon contract with Kronos for Workforce Dimensions, including an associated Order Form. The price for the Workforce Dimensions solution (which includes the Standard Customer Success Plan) during the Initial Term of the Workforce Dimensions agreement will be at the same PEPM fee as the Workforce Central SaaS solution PEPM fees (i.e., Monthly Services Fees) for the same licensed capacity, provided that the billing frequency for the Workforce Dimensions solution must be annual in advance.

City and County of Denver - DOIT

Signature: _____
Name: _____
Title: _____
Effective Date: _____

Kronos Incorporated

Signature: _____
Name: _____
Title: _____
Effective Date: _____

Statement of Work for City & County of Denver

Upgrade Workforce Central in the Kronos Cloud - SaaS

Sales Executive	Brenda Lyle
Author	Howard Stohlman
Expiration Date	5/9/2018
Quote Number	2018-42951
Revision #	1
Opportunity ID	Opp-42588
Status	Approved
Customer SID	6048342

Overview

This Statement of Work ("SOW") provides an overview of the project including scope, approach, costs, and how the project will be managed. To support a successful implementation, the customer will provide the required internal project resources.

Project Objectives

Kronos conducted an onsite system evaluation to review current processes at CCOD. Kronos identified and suggested improvements to the current version as well as the latest version based on on-site interviews with Central Payroll, IT, Parks and Recreation, Public Works and Denver International Airport.

After the onsite meeting, Kronos and the CCOD met to discuss a roadmap to bring CCOD into the Kronos cloud on version 8.1 with some additional configuration aligning to the onsite system review.

To help CCOD realize their business objective of expeditiously upgrading to Workforce Central v8.1 and migrating their solution to the Kronos Cloud, Kronos is recommending the following phased approach:

Phase 1

CCOD has been a long-time user of Workforce Central and has taken significant ownership of their existing configuration and system integrations. Since a smooth efficient upgrade to the Kronos Private Cloud will help CCOD meet its business objective, a Cloud readiness assessment to inventory and evaluate CCOD's environment and configuration will be conducted. A report will identify any obstacles that may impact the standard upgrade and transition to the Kronos Cloud so that they can be quickly mitigated.

Phase 2

Migration to the Kronos Cloud, requires that CCOD's Oracle Database be converted to Microsoft SQL as part of the Technical upgrade to version 8.1. During this phase, Kronos will convert the Workforce Central and existing Archive database to SQL and perform a technical "like of like" upgrade to Workforce Central v8.1.

Phase 2 assumptions:

- CCOD uses LDAP authentication for Kronos so Kronos will configure LDAP authentication in v8.1
- CCOD currently uses Telephone Time Entry (TTE). However, they will be implementing Teletime IP in phase 3 and will discontinue use of TTE. Therefore, TTE will not be included in the upgrade
- CCOD does not have an archive database in Record Manger

Phase 3

The onsite system evaluation and subsequent discussion with CCOD's team, revealed that some additional configuration would help CCOD utilize Workforce Central more efficiently. The following configuration changes are included in phase 3:

- Configure Mobile
- Configure multiple approvals functionality
 - Multiple approver functionality will give CCOD the ability to assign staff to work for different business units or managers and limit the approval of time worked for each employee to that business unit or manager
- Configure Alerts for reaching thresholds for certain pay codes



- Configure historical edits for Activities
- Configure time off requests so that employees can retract already approved requests
- Configure TeleTime IP
- Configure 1 additional schedule group in Workforce Scheduler
- Configure Enterprise Archive

Proposed Solution

Module	Project Type
Workforce Timekeeper	Upgrade
Workforce Manager	Upgrade
Workforce Employee	Upgrade
Workforce Integration Manager	Upgrade
Workforce Mobile Manager	Upgrade
Workforce Mobile Employee	Upgrade
Workforce Scheduler	Upgrade
Workforce Leave	Upgrade
Workforce Activities	Upgrade
Kronos Enterprise Archive	Upgrade
Workforce Integration Manager to TeleStaff	Upgrade
Workforce TeleTime IP	New

Project duration is expected to be 24 weeks, based upon our experience with our customers and products. Depending upon the preparation and engagement of your organization, there may be opportunity to complete the project in a compressed duration. However, if project resources are unprepared or unavailable, the duration of the project may need to be extended, increasing the budget required to successfully complete this scope of work. Requests for additional scope or activities outside of this planned project scope may be accommodated through the change process. In this circumstance, Kronos may issue a change order to ensure the appropriate budget is available.

Kronos will deliver the scope of this project utilizing a blended approach. A blended approach combines onsite and remote resources.



Instructor Led Training

Kronos Instructor Led Training is purchased as Training Points. Training Points allow you to budget for training with the flexibility to adjust your plan during implementation.

Core Team training will help your key functional and technical users to make informed solution design, configuration decisions and provide core product knowledge.

Module	Description
Workforce Timekeeper	Public instructor led training for 10

Application Administrator training will prepare you to perform daily and periodic system administration tasks. This training may require pre-requisite knowledge of the core solution functionality.

Module	Description
Workforce Timekeeper	Public instructor led training for 2
Workforce Timekeeper	Public instructor led training for 2
Workforce Timekeeper	Public instructor led training for 2

IT Specialist training will prepare you to support and maintain the Workforce Central environment and complete technical tasks. This training may require pre-requisite knowledge of the core solution functionality.

Module	Description
Workforce Central	Public instructor led training for 1

Train-the-Trainer Programs prepares internal training teams to deliver user training to managers, supervisors and employees.

Module	Description
Workforce Timekeeper	Private instructor led training for 5
Workforce Scheduler	Private instructor led training for 5

User Adoption Tools

Kronos will develop user adoption tools to accelerate effective system use. The tools will incorporate your configuration, business process, and terminology – allowing end users to quickly move from learning tasks to performing them in your live environment.

- An Employee Training Kit will be created detailing the most common employee tasks for Workforce Mobile Employee.
- Kit Customization - WF Mobile Employee Training Kit



Project Approach

The project team will collaborate to establish a project plan with tasks, responsibilities, and milestone dates and provide the foundation for project control. Kronos will complete an environment readiness review with your project team resources to ensure the server environment is available and pre-requisites have been installed. Kronos will perform test upgrade, deploy interfaces and complete validation testing of upgraded environment. Upon completion of customer user acceptance testing, Kronos will complete the upgrade to production.

Project Leadership

Kronos will provide guidance through the life cycle of the project and provide best practices to implement the solution. As the main point of contact, the Kronos Project Manager will partner with the customer project leadership to develop the project plan to ensure objectives are achieved. The Kronos Project Manager will also deliver a collaborative workspace, which will serve as the dashboard for all aspects of the progress of the implementation.

Solution Assumptions

Workforce Central

- 2 Workforce Central environment(s) included in this deployment
- Customer has an Oracle Database
- The Authentication method will be LDAP
- Setup of Enterprise Archiver for ongoing Data Copy jobs included
- 15 existing interface(s) included
- 1 Workforce Central to Workforce TeleStaff integration upgrade included
- TeleTime IP setup

Cloud Readiness Assessment

The Cloud Readiness service prepares your organization for an efficient, low risk upgrade to Workforce Central SaaS or Cloud Hosted platforms in the Kronos Private Cloud. This service includes the following:

- Terminal strategy review and device initiated enablement
- Architecture and network review and architecture strategy
- Evaluation of interfaces and custom reports/extensions
- Performance optimization of the database (if mutually agreed)
- Analysis and Implementation of functional and technical best practices
- Evaluation customer workstation strategy
- Development of a formal change control process

Database Migration Service

Database Migration services move your Kronos database from either Oracle to SQL Server or from SQL Server to Oracle. Kronos will perform an assessment of your current database, creating a comprehensive catalog of current information and database history. This database and its critical data are then transferred to your designated platform. The Database Migration services include review of all Kronos system components, capacity planning and hardware. Database migrations can be performed on the customer's current Kronos version or at the time a WFC upgrade.





Services Investment Summary

This SOW represents a time and materials engagement. Travel expenses are not included and will be invoiced separately as incurred.

Service Type	
Professional Services	\$93,990.00
Educational Services	\$24,495.00
	\$118,485.00

Travel expenses are estimated to be between \$9,000 and \$15,000





Signatures and Approvals

SUBMITTED AND APPROVED BY KRONOS REPRESENTATIVE

By: _____ Date: _____

Title: _____

This Statement of Work is subject to the City & County of Denver's agreement with Kronos governing Professional and Education Services. By signing below, the authorized City & County of Denver's representative agrees to purchase the services described herein.

ACCEPTED AND AGREED
City & County of Denver

By: _____ Date: _____

Title: _____

City & County of Denver may make necessary copies of this document for the sole purpose of facilitating internal evaluation and/or execution of proposed project. Otherwise, the document or any part thereof may not be reproduced in any form without the written permission of Kronos Incorporated. All rights reserved. Copyright 2018.





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/27/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

Table with 2 main columns: PRODUCER (License # 1780862, HUB International New England) and CONTACT NAME (Charter Oak Fire Insurance Company, Travelers Property Casualty Company of America, etc.).

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Main table with columns: INSR LTR, TYPE OF INSURANCE, POLICY NUMBER, POLICY EFF, POLICY EXP, LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and E&O/Cyber Risk Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Contract Number: 201841702 As required by written contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured with regards to the appropriate policies ONLY.

Table with 2 columns: CERTIFICATE HOLDER (City and County of Denver) and CANCELLATION (Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Includes signature of authorized representative).



ADDITIONAL REMARKS SCHEDULE

AGENCY HUB International New England		License # 1780862	NAMED INSURED Kronos Incorporated 900 Chelmsford Street Lowell, MA 01851
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Coverage continued

17-18 Employers Liability (cont'd):

Travelers Indemnity Company
Policy# HVYFUB0F144017 - All States (except CA, MN, MO, NY and monopolistic)
Effective 10/01/17 to 10/01/18

Limits of Liability:

Bodily Injury by Accident \$1,000,000 each accident
Bodily Injury by Disease \$1,000,000 policy limit
Bodily Injury by Disease \$1,000,000 each employee

Travelers Property and Casualty Company of America
Policy# UB0F14486517 - CA, MN, MO, NY
Effective 10/01/17 to 10/01/18

Limits of Liability:

Bodily Injury by Accident \$1,000,000 each accident
Bodily Injury by Disease \$1,000,000 policy limit
Bodily Injury by Disease \$1,000,000 each employee