



**BOARD MEETING AGENDA**  
**Monday, November 10, 2014**  
**Regular Meeting - 7:00 P.M.**

**Directors**

Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**

Paul R. Eldredge  
*General Manager/  
District Engineer*

David M. O'Hara  
*Attorney*

1. Call to Order.

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2. Pledge of Allegiance.

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3. Roll Call.

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- Motion 4. Approve Minutes of the Meeting of October 27, 2014.

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- Information 5. Monthly Operations Report *(to be reviewed by the Budget & Finance Committee)*.
  - a. First Quarter FY15 Districtwide Balanced Scorecard Measures
  - b. Collection Services (CS) Process Scorecard

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6. Written Communications.

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7. Oral Communications.  
*The public may provide oral comments at regular and special Board meetings; however, whenever possible, written statements are preferred (to be received at the Union Sanitary District office at least one working day prior to the meeting). This portion of the agenda is where a member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction that is not on the agenda. If the subject relates to an agenda item, the speaker should address the Board at the time the item is considered. Oral comments are limited to three minutes per individuals, with a maximum of 30 minutes per subject. Speaker's cards will be available in the Boardroom and are to be completed prior to discussion.*

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- Motion 8. Authorize the General Manager to Execute an Agreement with Kronos for Purchase and Implementation of a Time and Attendance System *(to be reviewed by the Budget & Finance Committee)*.

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- Motion 9. Approving a Motion to Cancel or Reschedule the December 22, 2014 Board of Directors Meeting.

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- Motion 10. Board Member Compensation for 2015 *(to be reviewed by the Budget & Finance Committee)*.

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- Information 11. Information Items:
- a. Check Register.
  - b. Board Expenditures, 1<sup>st</sup> Quarter, FY15 (*to be reviewed by the Budget & Finance Committee*).
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- Information 12. Committee Meeting Reports. (*No Board action is taken at Committee meetings*):
- a. Budget & Finance Committee – scheduled for Thursday, 11/6/14 at 4:30 p.m.
  - b. Construction Committee – will not meet.
  - c. Legal/Community Affairs Committee – will not meet.
  - d. Personnel Committee – will not meet.
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- Information 13. General Manager's Report. (*Information on recent issues of interest to the Board*).
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- Information 14. Other Business:
- a. Comments and questions. *Directors can share information relating to District business and are welcome to request information from staff.*
  - b. Scheduling matters for future consideration.
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15. Adjournment - The Board will adjourn to the next Regular Meeting in the Boardroom on Monday, November 24, 2014 at 7:00 p.m.
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The Public may provide oral comments at regular and special Board meetings; however, whenever possible, written statements are preferred (to be received at the Union Sanitary District at least one working day prior to the meeting).

If the subject relates to an agenda item, the speaker should address the Board at the time the item is considered. If the subject is within the Board's jurisdiction but not on the agenda, the speaker will be heard at the time "Oral Communications" is calendared. Oral comments are limited to three minutes per individual, with a maximum of 30 minutes per subject. Speaker's cards will be available in the Boardroom and are to be completed prior to discussion of the agenda item.

The facilities at the District Offices are wheelchair accessible. Any attendee requiring special accommodations at the meeting should contact the General Manager's office at (510) 477-7503 at least 24 hours in advance of the meeting.

THE PUBLIC IS INVITED TO ATTEND

**MINUTES OF THE MEETING OF THE  
BOARD OF DIRECTORS OF  
UNION SANITARY DISTRICT  
October 13, 2014**

**CALL TO ORDER.**

President Fernandez called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE.**

**ROLL CALL.**

PRESENT: Manny Fernandez, President  
Jennifer Toy, Vice President  
Tom Handley, Secretary  
Pat Kite, Director  
Anjali Lathi, Director

STAFF: Paul Eldredge, General Manager/District Engineer  
Rich Cortés, Business Services Manager  
Andy Morrison, Collection Services Manager  
Dave Livingston, Treatment & Disposal Services Manager  
Sami Ghossain, Technical Services Manager  
Maria Scott, Principle Financial Analyst  
Richard Scobee, Senior GIS/Database Administrator  
Louis Rivera, Mechanic II  
Kristina Silva, Administrative Specialist I  
Regina McEvoy, Assistant to the GM/Board Secretary

**APPROVAL OF THE MINUTES OF OCTOBER 13, 2014.**

It was moved by Director Kite, seconded by Director Lathi, to Approve the Minutes of the Board of Director's Meeting held October 13, 2014. Motion carried unanimously.

**MONTHLY OPERATIONS REPORT FOR SEPTEMBER 2014.**

The Budget and Finance Committee reviewed this item. Paul Eldredge reported the following:

- There were two odor complaints, both in the City of Fremont. Each complaint was investigated with no odors found.
- There were no employee accidents in September.
- Regina McEvoy began work as the Assistant to the General Manager/Board Secretary.
- Dr. Connie Li began work as the Senior Process Engineer.
- Mike Farsai started work as a Plant Operator III Trainee.
- The General Manager transition between Rich Currie and Paul Eldredge took place on September 16, 2014.
- A joint Board of Directors meeting between Alameda County Water District and Union Sanitary District took place at the Union Sanitary District offices on September 25, 2014.

- The Board of Directors attended a retreat on September 29, 2014, which was attended by the new and outgoing General Managers.
- Several of the Directors and staff attended the Union City State of the City Address on September 30, 2014.
- Rich Currie's retirement party was held September 30, 2014.
- Current projections indicate the average annual sick leave per employee is 49.36, which is higher than the goal of 47.

Maria Scott reported the following:

- The following capacity fees were received in September:
  - \$72,000 from Coast Tropical
  - \$120,000 from Lennar Homes
  - \$87,000 from Robson Homes
  - \$11,000 from Mercedes Benz in South Fremont
- Current expenses include work on the Cogeneration Project and the Upper Hetch Hetchy Sewer System Rehabilitation.

### **WRITTEN COMMUNICATIONS.**

There were no written communications.

### **ORAL COMMUNICATIONS.**

There were no oral communications.

### **AUTHORIZING THE GENERAL MANAGER TO EXECUTE CHANGE ORDER NO. 3 WITH GSE CONSTRUCTION COMPANY FOR THE THICKENER CONTROL BUILDING IMPROVEMENTS PROJECT.**

The Construction Committee reviewed this item. Sami Ghossain stated the Board awarded the contract for the Project to GSE Construction. The contract included funds for the purchase of domestic valves to conform to new American Iron and Steel (AIS) requirements for all Clean Water State Revolving Fund Projects. On September 4, 2014, the State Water Resources Control Board provided staff with executed Amendment No. 1, which amended the finance agreement for the Project to waive AIS requirements, thereby allowing use of non-domestic valves for the Project. GSE research found \$154,769 in cost savings by purchasing non-domestic valves for the Project, in addition to a shorter procurement time. Staff negotiated a 90:10 cost saving split with GSE, in the District's favor. The 10 percent cost sharing was to compensate GSE for identifying potential savings, and their time spent investigating and computing valve pricing. Change Order No. 3 will reduce the change order rate to -1.35% of the original contract amount, and result in a total credit to the District of \$139,292.

It was moved by Director Kite, seconded by Director Handley, to Authorize the General Manager to Execute Change Order No. 3 with GSE Construction Company for the Thickener Control Building Improvements Project. Motion carried unanimously.

### **GIS JPA FY15 BUDGET ADJUSTMENT.**

*Note: This item was previously listed as a motion item, and was changed to an information item following the recommendation of the Budget & Finance Committee.*

The Budget & Finance Committee reviewed this item. Richard Scobee stated USD will purchase a 3-year subscription service through the Southern Alameda County GIS Authority (SACGISA) from Alameda County for aerial photos, a copy of the new aerial photos to use in-house, and access to the Pictometry Online browser service for \$8,000 per year for FY15 to FY17. SACGISA will contract Pictometry to digitize building outlines from the new aerial photos for a one-time cost to USD of no more than \$8,400. This adjustment resulted in a net \$7,600 reduction of the current FY15 GIS JPA project.

### **ACCEPTING FINANCIAL STATEMENTS FOR FISCAL YEAR ENDED JUNE 30, 2014.**

The Audit Committee reviewed this item. AJ Major, representing the District's audit firm Vavrinek, Trine, Day & Company, stated the audit found the District's financial statements to be accurate, neutral, and transparent. No instances of noncompliance were found.

It was moved by Director Handley, seconded by Director Fernandez, to Accept Financial Statements for Fiscal Year Ended June 30, 2014. Motion carried unanimously.

### **INFORMATION ITEMS:**

**Check Register.** All questions were answered to the Board's satisfaction.

**Report on the East Bay Dischargers Authority Commission Meeting of October 16, 2014.** Director Handley reported the following:

- The Commission discussed strategies and logistics for the Outfall Pipe Inspection Project.
- The National Pollutant Discharge Elimination System (NPDES) report for September showed EBDA's performance continues to operate within the normal range.
- The EBDA JPA Ad Hoc Committee met to discuss non-controversial JPA language changes on October 15, 2014.

### **Cal-Card Quarterly Activity Report.**

The Budget & Finance Committee reviewed this item. Rich Cortés stated the Quarterly Activity Report covers transactions for the CAL-Card billing period June 24, 2014 through September 22, 2014. There were 184 transactions totaling \$41,538.46.

### **Status of Priority 1 CIP Projects.**

The Construction Committee reviewed this item. Sami Ghossain stated there are 21 projects in the FY15 Capital Improvement Program (CIP) budget. There are nine projects ranked as Priority 1, and 12 ranked as Priority 2, based on criteria prepared by staff and approved by the Executive Team. Priority 1 projects are reviewed quarterly by the Executive Team, and all are currently on schedule.

### **First Quarterly Report on Capital Improvement Program for FY 15.**

The Construction Committee reviewed this item. Sami Ghossain stated CIP expenditures up to September 30, 2014, were above first quarter projections by approximately \$35,000 due in part to the early start of excavation work for the Thickener Control Building Modifications project.

## **COMMITTEE MEETING REPORTS:**

The Construction and Budget & Finance Committees met.

## **GENERAL MANAGER'S REPORT:**

Paul Eldredge reported the following:

- CASA appointed Paul to serve on the Federal Legislative Committee.
- The CalPERS on-site audit was completed during the week of October 20 – 24, 2014. Per the auditor's direction, Director's information will be added to the publicly available pay schedule.
- Paul attended the Union City Lion's Club meeting on October 23, 2014, and provided a general overview of USD.
- Paul will present to the League of Women Voters in Fremont on November 17, 2014.
- Safety-Kleen Systems worked with USD staff to develop parameters that allowed them to run batches to be tested prior to discharge. The first batch tested by USD staff was deemed acceptable for discharge, however the second batch was not. USD and Safety-Kleen representatives continue to meet to address the issue. Safety-Kleen has not determined the cause of the contaminants.
- A Fremont resident contacted USD to request the District contribute to the cost of their private lateral replacement. The individual believed roots started in the sewer main and grew into their private lateral. Staff believe the roots started in the private lateral and began growing into the sewer main, and do not believe USD is financially responsible for the private lateral replacement. Pursuant to District policy, USD will reimburse the contractor for the cost of the wye replacement. Per Board direction, Paul will forward information on the matter to the Fremont City Manager.
- Interviews have begun for the Collection Services and Treatment and Disposal Services Manager positions. Interviews for the three finalists for each position will be scheduled.
- The tour of the Hayward Marsh with the East Bay Regional Park District Board will likely be scheduled for the end of November.

## **OTHER BUSINESS:**

There was no other business.

## **ADJOURNMENT:**

The meeting adjourned at 7:57 to a USD Video Board Workshop in the Boardroom on Monday, November 3, 2014 at 6:30 p.m.

The Board will then adjourn to a Newsletter Workshop in the Centerville Conference Room on Monday, November 10, 2014, at 5:30 p.m.

The Board will then adjourn to the next Regular Meeting in the Boardroom on Monday, November 10, 2014 at 7:00 p.m.



**Directors**  
*Manny Fernandez*  
*Tom Handley*  
*Pat Kite*  
*Anjali Lathi*  
*Jennifer Toy*

**Officers**  
*Paul Eldredge*  
*General Manager*  
*District Engineer*

*David M. O'Hara*  
*Attorney*

**Date:** November 10, 2014

**To:** Board of Directors – Union Sanitary District

**From:** Paul Eldredge, General Manager/District Engineer  
Laurie Brenner, Organizational Performance Program Manager

**Subject:** Agenda Item No. 5a –Meeting of November 10, 2014  
District-wide Balanced Scorecard Measures

Recommendation:

**Information only.**

Background:

This report summarizes progress meeting the District's strategic objectives for the first quarter of fiscal year 2014-15.

### Safety

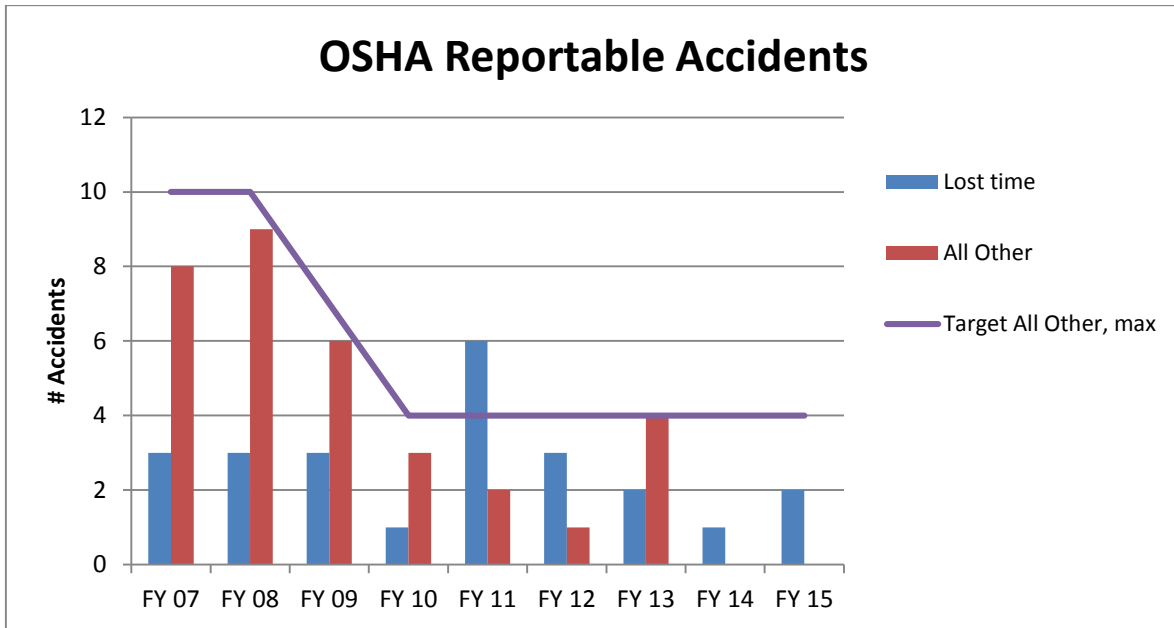
The District experienced two injuries during the first quarter of FY 15 quarter. Technically, one injury was incurred in the last quarter of FY14, but was not reported until 8/12/14.

The average FTE on Limited Duty was 0.93 for the quarter, exceeding the target value of  $\leq 0.5$  established as our annual goal. The total cost of Limited Duty is \$11,575 to date, not exceeding the annual target, but of concern at approximately 50% of the annual target.

All other safety measures are meeting targets, with slight concern over the number and cost of vehicle or equipment incidents. So far this year, there has been 1 incident of vehicle damage, against an annual goal of  $\leq 2$ . No claim for this minor vehicle accident inside the gate has been filed to date.

The X-Mod for the District is above target at 1.16, as was reported in at the end of FY 14.

See Table 1: Safety Objectives and Measures, for District performance against all safety measures in Q1.



**Table 1: Safety Objectives and Measures**

Objectives	Measures	FY 15 to Date	Annual Target	FY14	FY 13	Current FY Comments
Reduce the number of accidents	Total accidents with lost days	2	0	1	2	Left hand 8/12/14; right shoulder reported 8/14/14, occurred on 5/25/14
	Other OSHA reportable accidents	0	≤4	0	4	
Reduce the impact of accidents on employees and the District	Ave FTE lost time	0.08	≤0.5	0.05	0.25	Preliminary numbers as of 10/28/14
	Cost lost time	\$1,889	≤\$46,883	\$4,897	\$19,611	
	Ave FTE limited duty	0.93	≤0.5	0	0.15	Over 49% of annual target in Q1; area for concern
	Cost limited duty	\$11,575	≤\$23,442	0	\$6404	
	X-mod	1.16	≤1.0	0.95	0.85	Annual measure
	Incidents of vehicle or equipment damage	1	≤2	4	2	1 minor vehicle accident; no claim filed to date
	Costs associated with vehicles or equipment	\$444.18	≤\$5000	\$7,265	\$0	No claims to date; in-house fix of taillight damaged in incident above



**Table 1: Safety Objectives and Measures, continued**

Objectives	Measures	FY 15 to Date	Annual Target	FY 14	FY 13	Current FY Comments
Identify and correct poor practices and potential hazards	# Facility inspections	1	4	4	4	Field Operations and FMC shop inspected
	% of areas of concern corrected within 45 days	90%	≥90%	92%	93%	
	# management work site observations	77	≥266 /yr	323	332	
Implement industry best practices	# best practices site visits	0	≥2	2	2	
Communicate our commitment to safety	# GM communication on status of safety program & performance	1	≥4	6	7	Safety Strategy update
	# safety strategy reviews conducted by ET and EHSPM	2	6	6	6	Reviews of prior and drafted strategies
Increase employee awareness  Educate employees in safe work practices	# of major safety training events offered	1	7	7	5	Hazmat Handler
	% of targeted employees trained	90%	≥90%	91.8%	96.6%	
	Positive Responses on Employee Safety survey	NA	≥75%	83%	NA	Not issued yet

**Green** = met or exceeded target; or projected to meet annual target  
**Yellow** = will not meet annual target *if trend continues*; needs attention  
**Red** = Will not meet annual target by >10%; corrective action needed

### Operational Excellence

The District is meeting targets for most operational excellence measures. Exceptions are explained below.

Both the % of Operating Expenditures and Priority 1 Special Projects Expenditures measures in the scorecard were below anticipated values in Q1, coming in at 21% and 4% respectively against annual targets of 95-103% and 80-110% for the measures. The start of FY 15 has been slow in this arena, per the Principal Financial Analyst, but expenditures are expected to pick up in Q2 and beyond. Quarter over quarter values may vary in these measures in an acceptable manner.

Percentage of planned competency-based training milestones completed is behind schedule in some teams. The definition for this measure was revised for FY 15 and all teams (TPO, CS and FMC) are now using a common definition. Weighting for various types of training activities were removed and annual targets for total modules to be trained annually were updated by the respective Work Group Managers.

The target number of individual competency assessments for the Collections Services team was raised significantly from 27 in FY 14 to 52 in FY 15; however, only four were completed in Q1, which is of concern (under 8% of planned annual total).

See Table 2, Operational Excellence Objectives and Measures, for District performance against all operational measures in Q1.

See Table 3 for a list of public relations activities completed to date in FY 15.

**Table 2: Operational Excellence Objectives and Measures**

Objectives	Measurements	FY 15 to Date	Annual Target	FY 14	FY 13	Comments/Progress
<b>Stewardship:</b> Demonstrate responsible stewardship of assets and the environment  Be prepared for emergencies	Progress meeting public relation program goals: % qtrly milestones met	100%	≥90%	98%	111%	20% of annual activities completed in Q1; 100% for the qtr.
	# emergency preparedness drills or training events	2	3	3	2	Planned event in August and an unplanned evacuation on 9/8/14 with debrief
<b>Service:</b> Provide reliable, high quality service	Total number of adverse impacts USD activities have on external customers	1	≤10	12	7	Misinformation leading to financial loss and new claim pending
	Response to Contact USD messages: % within 3 days	96%	≥90%	95%		48/50 in Q1; New measure for FY 14
	Response time to service calls: % within 1 hour	98.6%	≥95%	97.1%	98%	70 call outs in Q1
<b>Fiscal responsibility:</b> Ensure funding for critical programs and projects, while maintaining comparable rates  Accurately project and control costs	Operating (previously ECB) Expenditures, % of Board approved budgeted	21%	95-103%	95%	97%	Quarter over quarter values may vary in an acceptable manner
	Priority 1 Special Projects Expenditures (previously Priority Non-ECB), % of budgeted	4%	80-110%	84%	95%	Expenditures are expected to increase in 2nd qtr; slow start in FY 15
	Residential Sewer Service Charges	NA	<33 <sup>rd</sup>	11.5th	12th	
	# regional projects with financial benefit	3	≥3	2	4	Target changed to ≥3 for FY 15; Continued participation in BACC, BACWWE Operator training program, CASE
<b>Asset Management:</b> Manage and maintain assets and infrastructure	# critical asset failures; no negative impact	0	≤2	1	0	
	# failures with negative impact	0	0	0	0	
	# priority CIP projects completed	100%	85% of planned	9	11	FY 15 Target changed from 100% to 85%; 9/9 planned in Q1

Objectives	Measurements	FY 15 to Date	Annual Target	FY 14	FY 13	Comments/ Progress
<b>Environmental Protection:</b> Maintain our ability to meet current and future regulations  Implement projects and programs that benefit the environment	# adverse impacts on environment	0	0	1	0	
	# Category 2/3 overflows	1	≤10	4		Cedar Street event on 9/2/14; 325 gallons with 315 captured (evaporation accounts for remainder); no material reached waterways
	# Regional projects with environmental benefit	3	≥3	2	2	Target changed to ≥3 for FY 15; BAPPG Pollution Prevention Program activities, ACWD Water Conservation Program; Green Business Certifications Program
<b>Efficiency:</b> Optimize processes; use technology effectively	See Timeline and Team Scorecards					
<b>Planning:</b> Plan for long-term financial, project and staffing needs	% of Timeline projects on schedule	50%	≥90%	55%		New measure for FY 14; still under development
<b>Employees:</b> Maintain a highly competent, flexible workforce	% of planned competency-based training milestones completed	43%	100%	66%	155%	Measure was modified beginning FY 15- new definition across all affected teams; removed weighting by module type or activity
	# CS Assessments completed	4	52	22	38	Target increased from 27 to 52 in FY15; completed Stubs and Channels and Skid Steer Loaders for 2 EE's in Q1
<b>Labor Relations:</b> Foster a collaborative employee-management relationship that encourages new ideas and continuous improvement	Total % of employees participating in District taskforces or committees	NA	45%-55%	51%	52%	Reported 2 <sup>nd</sup> and 4 <sup>th</sup> qtrs

**Green** = met or exceeded target; or projected to meet annual target  
**Yellow** = will not meet annual target *if trend continues*; needs attention  
**Red** = Will not meet annual target by >10%; corrective action needed  
 White= No target identified

**Table 3: Public Relations Activities FY 15**

<b>Project</b>	<b>Goal/Milestones</b>	<b>YTD</b>
USD website	Update once a month; Progress on upgrade project	√
Press Releases	4 per year; post on web- Welcome Paul Eldredge	√
Newsletter	Annually	Pending
Community Outreach: 3-4 events/year (items listed are examples only)	Earth Day Fair (4 <sup>th</sup> qtr)	
	Newark Days Fair	√
	Plant Tours as requested- no target, but did 3 in Q1	√
	Outreach to 5 <sup>th</sup> grade teachers	√
	5 <sup>th</sup> grade presentations, 35+ /year- normal to have none in Q1 (school is out a lot)	Pending
	Alameda County Science & Engineering Fair Judge	
	Career Outreach/Fairs in Jr High or High School	
	Career outreach to colleges or other groups: BAYWORK, CWEA- Chabot College presentation in Q1 by TPO/CIP (Pipkin and Pachmeyer)	√
	ROP/Solano College support	√
Business Outreach	Industrial Advisory Council meetings	√
	Green Business certification outreach 4x/yr- EC team changes impacting this activity	No*
	Certificate of Merit Presentations (4 <sup>th</sup> qtr)	Pending
Civic Outreach	Presentations to Fremont & Newark City Councils	Pending
Charity Events	3-4 events Back to School Sept 2013, Thanksgiving Food Drive, Holiday Gift Drive	Pending
CIP Public Meetings	As necessary	Pending

Check mark above means on target for the year

**Directors**

Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**

Paul Eldredge  
*General Manager/District  
Engineer*

David M. O'Hara  
*Attorney*

**DATE** November 5, 2014

**MEMO TO:** Board of Directors - Union Sanitary District

**FROM:** Paul Eldredge, General Manager/District Engineer  
Andy Morrison, Collection Services Manager

**SUBJECT:** Agenda Item No. 5b - Meeting of November 10, 2014  
Information Item: **Collection Services Process Scorecard**

**Recommendation**

Information only

**Background**

We are in our fourteenth year of using this Process Scorecard. This planning tool continues to be very useful in maintaining our focus on the prevention/reduction of sanitary sewer overflows and minimizing their impacts on our customers and the environment.

Collection Services ensures that wastewater is kept in the gravity system from the point of entry by the customer, until it is received and processed at the transport system and the treatment plant.

In order to achieve the goal of SSO prevention/reduction, there are five processes that need to be done well.

**System Management**

- 72 month cleaning and inspection of the entire system
- Effective selective line cleaning program
- Easement maintenance

### **Pipe Assessment**

- Televising to determine condition
- Address structural deficiencies through spot repairs or capital improvements
- Address pipe capacity issues

### **Control Roots**

- Mechanical removal
- Chemical treatment

### **Control Fats, Oils, and Greases**

- More frequent cleaning of selected lines
- Reduce entry into our collection system at the source

### **Service Requests**

- Timely response
- Customer satisfaction

Performance targets are based on the amount of work that needs to be done to support the 72 month sewer cleaning and inspection, selective cleaning, and root control program, and productivity standards originally developed by the Collection System Collaborative Benchmarking Group, in which USD participated, and later enhanced based on the results of an internal USD study.

Collection Services workgroup employees are updated monthly on their performance. With this focused effort to prevent/minimize spills, we have managed to maintain a low number of spills and claims from spills this past year. This year we are on course to have another successful year, including the past 28 months with only 7 SSOs, maintaining our place as a leader in CA, in Wastewater Collection System Operations and Maintenance.

FY15 Collection Services BSC								
Objectives	Measures	Qtr 1		FY 15 To Date		FY 15 Target	FY 14 YE	FY 13 Y/E
<b>Customer Perspective:</b>								
• Minimize Overflows SSO's	• # of Category 3 SSOs	1	SSOs	1	SSOs	≤ 10 Category 3 SSOs	4 SSOs Cat 3	New SSOs Cat 3
	• # of Category 2 SSOs	0	SSOs	0	SSOs	• Zero Category 2 SSOs	0 SSOs Cat 2	0 SSOs Cat 2
	• # of Category 1 SSOs	0	SSOs	0	SSOs	• Zero Category 1 SSOs	1 SSOs Cat 1	0 SSOs Cat 1
• Minimize Negative Impact on Environment	• Percent of spill recovery	95.0%	Recovery	95.0%	Recovery	• 50% Recovery	99.96% Recovery	100% Recovery
	• SSO's # of Repeats	0	SSO Repeats	0	SSO Repeats	• Zero Repeats	0 SSO Repeats	0 SSO Repeats
Manage and maintain assets and infrastructure	• Critical Asset Failures Sewer Main or MH Deficiency resulting in Category 1 SSO, sink hole, injury or resulting property damage > \$2,000 due to one or more of the following: – Break, collapse, offset or hole in pipe or – PMP not followed – Corrosion – Defect identified & corrective action not	0	Asset failure	0	Asset failure	• Asset failure	0 Asset failure	0 Asset failure
	• Stoppage in > 12" diameter mainline	0	Stoppages	0	Stoppages	• Zero Stoppages	0 Stoppages	0 Stoppages
	• # of times building becomes dangerous or unsuitable for occupation.	0	Incidents	0	Incidents	• Zero Incidents	0 Incidents	0 Incidents
	Critical asset failure with a negative impact on customers or the environment	0	Incidents	0	Incidents	Zero Incidents	0 Incidents	0 Incidents
• Provide Uninterrupted Service	Response Time from notification thru initial contact includes dispatch time	98.6%	w/i 1 hour	98.6%	w/i 1 hour	≥ 95% w/i 1 hr	97.1% wi 1 hour	98.1% w/i 1 hour
• Reduce negative impacts of District	Number of odor complaints attributable to sewer,	0	Odors	0	Odor	≤ 2 Odor	1 Odor	0 Odors
<b>Financial Perspective:</b>								
• Provide competitive service	Cleaning – cost per ft/day/crew	\$0.50	Per ft	\$0.50	Clean Per Ft	Clean - \$0.70 to \$0.35	\$0.68 Clean Per Ft	\$0.61 Clean Per Ft
	Cost per feet/day	Televising – cost per ft/day/crew	\$1.10	Per ft	\$1.10	TV Per Ft	TV - \$1.64 to \$0.84	\$0.96 TV Per Ft
• Minimize Claims & Fines	Total Cost of Claims/Fines (from SSO's)	\$0	Total Claims	\$0	Total Claims	Claims ≤\$2000	\$0 Total Claims	\$0 Total Claims
		\$0	Total Fines	\$0	Total Fines	Fines-\$0	\$0 Total Fines	\$0 Total Fines
	Average cost per claim/fine	\$0	Avg Claims	\$0	Avg Claims	Claims ≤\$1000	\$0 Avg Claims	\$0 Avg Claims
		\$0	Avg Fines	\$0	Avg Fines	Fines-\$0	\$0 Avg Fines	\$0 Avg Fines
<b>Internal Process Perspective:</b>								
• Trouble Call & SSO response	Response Time	98.6%	w/i 1 hour	98.6%	w/i 1 hour	≥ 95% w/i 1 hr	97.1% wi 1 hour	98.8% wi 1 hour
• Pipe/Problem Assessment	Number of Repeat Spills	0	Zero	Zero	per year	≤ 2 per year	Zero per year	Zero per year
• Preventative Maint. Program	Year 2 of 2-Yr Catch Up Plan % Complete	32.0%	% Complete	32.0%	% Complete	Annual Goal = 100%	74.7% Complete	81.6% Complete
	TV Goal Footage	285,855	TV Footage	285,855	YTD TV Ftg	892,931	984,740 TV Footage	826,571 TV Footage
• Cleaning (other cleaning omitted)	Per Month Cleaning Footages	104,871	Avg Ft Per Mo	104,871	Avg Mo	106,016 Mo; 1,272,196 YE (w/o CI)	115,356 Mo; 1,384,388 YE	107,055 Mo, 1,284,656 YE
o Feet per crew day	o Feet Per Crew/Day	3,841	Ft Per Crew/Day	3,841	Ft Per Crew/Day	4,000 to 8,000 Per Crew Day	5,525 Ft All Crews/Day	4,987 Ft Per Crew/Day
o # of Crew Days	o # of Crew Days	21	# of Crew Days	21.0	# of Crew Days	27 to 13 Crew Days	20.8 # of Crew Days	20.8 # of Crew Days
• Televising	Per Month Televising Footages	95,224	Avg Ft Per Mo	95,224	Avg Mo	74,411 Mo; 892,931 YE	81,968 Mo; 984,740 YE	68,880 Mo, 826,571 YE
o Feet per crew day	o Feet Per Crew/Day	2,174	Ft Per Crew/Day	2,174	Ft Per Crew/Day	1,800 to 3,500 Per Crew Day	4,024 Ft All Crews/Day	3,680 Ft Per Crew/Day
o # of Crew Days	o # of Crew Days	24.3	# of Crew Days	24.3	# of Crew Days	41 to 21 Crew Days	20.5 # of Crew Days	18.5 # of Crew Days
• Key Vehicles not Available For Preventative Maintenance Program	Days Per Mo 2 Hydrojets Not Available	0	Days	0	Days	< 3 Days	0 Days	0 Days
	Days Per Mo 2 TV Vans Not Available	0	Days	0	Days	< 3 Days	0 Days	0 Days
<b>Learning &amp; Growth:</b>								
• Maintain and increase employee skills	# Training modules updated & taught	0	Module	0	Modules	4 Modules	1 Module	0 Modules
	# of Training Modules w/instructions completed					N/A	1 Module	2 Modules
	# of individual Competency Assessments passed	0	Assessments	0	Assessments	52 Assessments	22 Assessments	38
• Communicate Performance Data to Teams	# of time info shared with Team	3	Min. per mo	3	Min. per mo	Min. 1 per/mo	12	12





**Directors**  
Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**  
Paul R. Eldredge  
*General Manager/  
District Engineer*

David M. O'Hara  
*Attorney*

**DATE:** November 10, 2014

**MEMO TO:** Board of Directors - Union Sanitary District

**FROM:** Paul R. Eldredge, General Manager/District Engineer  
Richard A. Cortes, Business Services Manager  
Rufus Tai, Sr Database Administrator/Developer

**SUBJECT:** Agenda Item No. 8 - Meeting of November 10, 2014  
**Authorize the General Manager to Execute an Agreement with Kronos Incorporated for Purchase and Implementation of a Time & Attendance System**

## **Recommendation**

Staff recommends the Board authorize the General Manager to execute an Agreement with Kronos Incorporated in the amount of \$117,700.70 for the purchase and implementation of a Time & Attendance System.

## **Background**

The FY'15 IS R&R budget includes funds for purchase and implementation of a Time & Attendance System. The total project is budgeted at \$200,000. A request for proposals (RFP) was developed and issued on July 18, 2014. The RFP was sent to seven firms. Responses were received from three firms:

- Kronos Incorporated
- Tyler
- Integrated Time

The proposals were evaluated by the following members of the Project Team:

- Kathy Destafney, Business Services Coach
- Armando Lopez, Total Productive Operations Coach

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- David Leath, Fabrication, Maintenance, and Construction Coach
- Virginia Holslag, Accounting Technical Specialist
- Jamie Rojo, Accounting Technical Specialist
- Sharon West, Accounting Technical Specialist
- Jose Rodrigues, Collection System Worker
- Dave Drake, Plant Operations Trainer
- Rufus Tai, Senior Database Administrator/Developer

Two firms were invited to interview and both were selected to further demonstrate their systems:

- Kronos Incorporated
- Integrated Time

Based on their price, experience, and proposed solution, Kronos Incorporated. was selected for the project.

The current Time & Attendance System went live in December 2009, and cost approximately \$212,000 to license and implement. The operating system and database for that system will be unsupported by Microsoft in the summer of 2015. Because the current Time & Attendance System was highly customized, it would be both risky and expensive to upgrade in order to reside on a currently supported operating system and database.

As recommended in the 2012 IT Master Plan, Time & Attendance System was slated for an upgrade in FY 15, and therefore, we decided to solicit a new Time & Attendance System with approval from the Executive Team. The project is anticipated to be completed by Fall 2015.

The foundation of the solution proposed by Kronos is their commercial off-the-shelf (COTS) Workforce Central system. The 2012 IT Master Plan recommends procuring COTS software for major applications as a critical success factor. The project team is not seeking any customization from the vendor. All pay and business rules implemented will solely be based on configurable functions from the system. Kronos has also indicated in their proposal that this system will be able to fully support every pay and business rules in our current system.

The project team selected Kronos' hosted option which is a cloud solution in delivering the system to USD. The Project Team compared this with an on premise solution based on cost, quality of service, availability of service and determined that the hosted solution will be most advantageous to the District. The Time and Attendance System will only host data containing hours worked and schedules. The Human Resource

database is still being hosted within USD, and therefore, no personal information is in danger of being breached through the cloud solution.

Staff selected to “piggy back” off of a US Communities negotiated software license and support agreement. The terms were negotiated for all US government agencies small, medium and large. The contract was first executed with Hartford County Public Schools in Maryland. US Communities is a national government purchasing cooperative that provides the District more leverage power with Kronos being part of this consortium. District legal counsel has reviewed the software license and implementation agreements and has no issues with it.

Staff recommends that the Board authorize the General Manager to execute an agreement in the amount of \$117,700.70 for implementation of a Time & Attendance System.

PRE/RAC/RT

Attachment: Statement of Work, Order Form, Functionality Matrix, US Communities Contract #14-JLR-003, Amendment one to contract #14-JLR-003



## Statement of Work

Union Sanitary District

Implement Workforce Central in the Kronos Private Cloud

<b>Sales Executive</b>	Murtz Kizilbash	<b>Presales Consultant</b>	
<b>Expiration Date</b>	2/3/2015	<b>Service Portfolio Consultant</b>	Howard Stohlman
<b>Customer Name</b>	Union Sanitary District	<b>File Name Control ID</b>	2014-9176
<b>SOW Create Date</b>	11/3/2014	<b>Revision #</b>	3
<b>Project Type</b>	Net New	<b>Status</b>	Approved



## 1. PROJECT SCOPE

This Statement of Work (also known as the "SOW") documents the agreement between Kronos Incorporated and Union Sanitary District concerning the services to be performed by Kronos, including the deliverables, the costs of the project, the responsibility of each party and how the project will be managed.

### 1.1. PROJECT OVERVIEW

New Implementation of Workforce Central 7.0

### 1.2. PRODUCT SUMMARY

The following products are considered in scope for the services and fees defined within this document, unless otherwise noted below. Additional products and/or licenses may incur additional fees.

Product	Implementation Type	Version	Licenses Owned	Licenses Hosted
Workforce Timekeeper	New	7.0	150	150
Workforce Employee	New	7.0	150	150
Workforce Manager	New	7.0	25	25
Workforce Integration Manager	New	7.0	150	150
Workforce Absence Manager	New	7.0	150	150

### 1.3. PROJECT DURATION

Depending upon Union Sanitary District resource availability and project task capability, the duration of the project may need to be extended. This will increase the number of hours required for tasks that are performed on a weekly basis such as managing project communications, managing/updating project plans, facilitating project meetings and updating project status reports.

Estimated Duration of Project	12 weeks
-------------------------------	----------

### 1.4. PROJECT ASSUMPTIONS

- All services remotely delivered.
- Kronos' technical approach is consultative and collaborative – refer to appendix A (Functionality Matrix).
  - Kronos will configure 100% of the High Priority Items within the scope of this implementation.
  - Kronos will configure a minimum of 50% of the Medium Priority Items within the scope of this implementation and show USD project team how to configure remaining as agreed to by the project team.



- Kronos will configure a minimum of 25% of the Low Priority Items within the scope of this implementation and show USD project team how to configure remaining as agreed to by the project team.
- The Union Sanitary District project team will be fully staffed & empowered to make decisions.
- Professional Services are billed as consumed. Changes in project scope may require additional Professional Services, which will be handled through the Kronos Change Order Control Process.

## 2. PROJECT GUIDELINES

### 2.1. CHANGE CONTROL

If the Scope of Services defined in this document changes at any time during the course of this project, Kronos and Union Sanitary District will review and adjust the scope and budget of services through standard Kronos change control procedures.

Please review the Kronos Change Control Policy:

<http://www.kronos.com/professionalservicesengagementpolicies.aspx>

### 2.2. CUSTOMER APPROVAL OF SERVICE DELIVERABLES

As part of the project, service deliverables may be provided to Union Sanitary District for approval and/or acceptance. Delays in customer approval/acceptance of deliverables will result in an extension of the project timeline and may result in additional services being required. To avoid project delays and increased costs, Union Sanitary District should expect to approve/accept deliverables or provide written notification of errors to Kronos within five (5) business days after receipt of the deliverable. Following the receipt of a revised deliverable, Union Sanitary District will then have an additional five (5) business days to report that all errors have been resolved and provide deliverable acceptance.

### 2.3. ENGAGEMENT RECOMMENDATIONS

Union Sanitary District is responsible for developing their workforce management policies and for documenting and disseminating business procedures and policy changes to support the Kronos system prior to Kronos implementing the policies. The Union Sanitary District Project Team will attend appropriate Kronos training prior to and while participating in the implementation. Union Sanitary District understands that Kronos recommends setup of both a DEVELOPMENT and PRODUCTION environment.

Commitment from Union Sanitary District upper management is crucial to the success of the project. Kronos assumes Union Sanitary District will assign a Project Executive Sponsor. The Executive Sponsor is responsible for implementing the necessary change management for Union Sanitary District to embrace using an automated Workforce Management system and for ensuring the Project Team is appropriately staffed, made available and is executing their tasks according to the Project Plan.



## 3. PROJECT MANAGEMENT

### 3.1. PROJECT PLANNING AND MANAGEMENT

Kronos will deliver a customer implementation guide, a project workbook or checklist and facilitate periodic status meetings.

Project Management Description	
Remotely Delivered Project Support Services	Average 3 hours per week

## 4. IMPLEMENTATION METHODOLOGY PHASES

### 4.1. SOLUTION ASSESSMENT AND DESIGN

During this phase of the project, Kronos assists Union Sanitary District with ensuring all applicable requirements and Solution Design documents for the implementation of the product(s) are understood and completed.

#### *Customer's Commitment*

Prior to this phase of the project, Union Sanitary District shall validate connectivity to the Kronos Private Cloud. Union Sanitary District shall also arrange for installation and network testing of the Timekeeper terminals, if purchased. In addition to completing the requisite Kronos training, the Union Sanitary District Project Manager shall ensure that all internal resources are coordinated and scheduled to participate in each assessment per their domain expertise or role as a decision maker. Also during this phase, the Union Sanitary District Project Manager shall begin to develop testing and education plans.

### 4.2. SOLUTION BUILD

During this phase of the project Kronos installs and builds the solution per the Solution Design documents. In addition, Kronos will perform basic unit testing to validate the build against the Solution Design document.

#### *Customer's Commitment*

During this phase of the project Union Sanitary District will provide access and security to the applicable network and servers and dedicate or make available, appropriate resources with the necessary domain experience. This includes IT resources to participate in terminal configuration and testing, and configure system backups. It may be necessary for the Union Sanitary District Project Manager to provide communication and access to a Third Party Software vendor during the build and testing of integration components or custom attributes.



### 4.3. SOLUTION TESTING AND DEPLOYMENT

During this phase of the project Kronos supports the Union Sanitary District project team with testing to the Product Design document, resolving all critical open issues as well as deployment planning and support.

#### *Customer's Commitment*

During this phase of the project Union Sanitary District will finalize the test plan to support unit, integration and operational testing; complete test case scenarios in the Solution Validation Workbook; dedicate or make available on an as-needed basis, appropriate resources to test the product(s), ensuring representatives from all affected user communities participate in the test cycle. Union Sanitary District will also coordinate testing with other vendors, and if applicable, test and validate the data transfer from Kronos to other vendors. Union Sanitary District testing team will utilize the Solution Validation Workbook for unit and parallel testing and maintain the workbook as needed until testing is complete. Union Sanitary District will also write operational procedures and train user as needed for a successful deployment.

## 5. PROJECT SCOPE DETAIL

### 5.1. APPLICATION BUILDING BLOCKS

General Information	
Number of Employees in Project Scope	150
Number of Sites (facilities, locations etc.)	1
Decentralized	No
Unions	Yes
Number of Managers that will be supported	25
Workforce Central Technology Factors	
Total number of environments	2
The database platform will be	SQL Server
Workforce Central Technology Services Scope	
<ul style="list-style-type: none"> <li>• Lead Technical Readiness Assessment with Record Retention Configuration (2 environments)</li> <li>• Technical Preparation for Deployment and Support</li> <li>• 1 Application Install (2 environments on SQL Server)</li> </ul>	
Workforce Timekeeper	
This product will be implemented in phase	1
Number of Employees within Scope	150





Number of Assessment Groups	1
Number of Deployment Groups	1
<b>Workforce Timekeeper Professional Services Scope</b>	
<ul style="list-style-type: none"> <li>• Lead Application Configuration Assessment</li> <li>• Standard Configuration: 7 labor levels: 1 pay policy groups: 5 schedule groups and shift templates: 10 holidays: 5 comments: 3 function access profiles</li> <li>• Basic Accrual rules</li> <li>• Pay rules/work rules</li> <li>• Navigator Personas</li> <li>• Alerts</li> <li>• Delegate Authority</li> <li>• Time Off Requests</li> <li>• CA Meal Premium</li> <li>• Alerts Package</li> <li>• Valid Accounts or Valid Accounts with Multiple Approvals</li> <li>• Standard Testing Guidance</li> <li>• Deployment Planning and Go-Live Support</li> </ul>	
<b>Workforce Integration Manager</b>	
This product will be implemented in phase	1
Number of Employees within Scope	150
<b>Integrations In Scope</b>	
<ul style="list-style-type: none"> <li>• 1 Workforce Timekeeper: Basic Accruals Balance Import</li> <li>• 1 Workforce Timekeeper: Employee Import</li> <li>• 1 Workforce Timekeeper: Pay Data Export</li> <li>• 1 Workforce Absence Manager: Calculated Accruals: Balance Data Import</li> <li>• 1 Workforce Absence Manager: Calculated Accruals: Export</li> </ul>	
<b>Workforce Absence Manager</b>	
This product will be implemented in phase	1
Number of Employees within Scope	150
Number of Assessment Groups	1
Number of Deployment Groups	1
<b>Workforce Absence Manager or Accruals, Attendance, Leave Professional Services Scope</b>	
<ul style="list-style-type: none"> <li>• Calculated Accrual Policies</li> <li>• Leave Groups</li> </ul>	



<ul style="list-style-type: none"> <li>• Leave groups follow same rules: paid or unpaid: Self: FMLA: non-FMLA: Personal: Military Duty:2 state-specific leave laws: CA:CT:DC:HI:IA:LA:MA:ME:MN:NJ:OR:RI:TN:VT:WA:WI. Modification of the Person Import to add licenses: profiles: administrator.</li> <li>• Lead Application Configuration Assessment</li> <li>• Standard Testing Guidance</li> <li>• Deployment Planning and Go-Live Support</li> </ul>	
Data Collection	
This product will be implemented in phase	1
Number of Employees within Scope	150
Data Collection Professional Services Scope	
• Data Collection: Workforce Employee	

## 6. CLOUD SERVICES

Union Sanitary District has selected the Cloud Services identified in this section.

### Cloud Customer Contact Information

Contact Name	Rufus Tai	
Contact Phone Numbers	(510) 477-7529	
Contact E-Mail	rufust@unionsanitary.ca.gov	

### Total Cloud Hosting Fees

Monthly Service Fees	Part Number	Unit of Measure	Initial Term	Current Monthly Fee	Fees (Added with this SOW)	Total Monthly Fees
CLOUD HOSTING WFC BASE FEE PER MONTH	HOSTING-100	EA	12	\$0.00	\$1,000.00	\$1,000.00
CLOUD HOSTING WFC PER EMPLOYEE FEE PER MONTH	HOSTING-101	EA	12	\$0.00	\$150.00	\$150.00
<b>Total Monthly Service Fees:</b>					\$1,150.00	\$1,150.00



## 6.1. CLOUD HOSTING SERVICES

<i>Datacenter</i>	KPC
<i>Hosted Environments:</i> Standard Production and Development (non-Production) environment	Included
<i>Additional Environments Included</i>	None
<b>Application Connectivity Mode: SSL Firewall / Secure Open Internet</b> Customer portal is provided and supported by Kronos facilitating secure authenticated access to customer applications. Portal access authorization is governed by customer requirements and is implemented by Kronos. Cooperative efforts with customer IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for customer Internet connection or ISP relationships.	Included
<b>Backup Services:</b> Customer data is backed up daily. Daily backups are incremental, with one (1) full backup (includes configurations and history) performed every 7 days. All database backups are replicated via encrypted SSL sessions to an offsite Kronos managed hosted environment for storage. Backups are retained for the prior 28 days.	Included
<b>Restore Services:</b> Restoration of Customer's Production database to one non-Production environment shall be performed upon Customer request up to one time per week at no charge. More frequent restores or restores to additional non-Production environments shall require a time and materials fee.	Included
<b>Citrix Licenses:</b> Named User licenses provided for accessing WIM Interface Designer and Custom Reports Designer.	2 Included
<i>SFTP Accounts</i>	2 Included
<b>Operating System and Database Management:</b> Execution of maintenance scripts, such as updating statistics, free space, indexes and database checks is included. Kronos shall apply all critical security patches, service packs and hot-fixes necessary to maintain the uptime and performance of the servers and applications throughout the life of the hosted solution	Included
<b>Server Maintenance:</b> Repair and replacement of defective or failed hardware and the installation of hardware upgrades.	Included
<b>Kronos Application Upgrade Services:</b> Services to apply Kronos application technical version upgrades, updates, Service Packs, and legislative updates (if applicable).	Included
<b>Languages</b> Note that multi-language support may require additional infrastructure and fees.	English Only



## 7. EDUCATIONAL SERVICES

### 7.1. INTRODUCTION

As part of your overall solution, Kronos Educational Services are included to help secure maximum user adoption. Kronos Educational Services has included an education strategy to train the implementation, functional and technical project team members and end users. The curriculum is structured by employee job role to ensure that each member of your team who interacts with the application has a clear learning path designed to develop knowledge in a logical sequence.

### 7.2. EDUCATIONAL SERVICES IN SCOPE

Educational Service	Description
<b>Project Team Training</b>	Includes product classes designed for key project team member based on individual job roles. All course delivery is purchased via training points to allow you to plan and budget training for your organization, yet give you flexibility to select specific courses to meet your implementation and continuing education needs. Training points can be used toward instructor-led training in the virtual classroom, in the traditional classroom, and for onsite training. Online course descriptions include the training point value. Each course has a point value that equals the price of the class.  Pricing for public classes, both virtual and in a Kronos classroom, is based on one student per paid seat. Pricing for each private event is based on a daily rate for the number of planned attendees. If additional students attend training, additional fees may be incurred. The total training points and associated cost will be reflected on your Sales Agreement.
<b>KnowledgePass™ Subscription</b>	KnowledgePass™ is an online educational portal that provides 24/7 anytime-anywhere access to in-depth training content to help your employees maximize productivity and achieve their goals from implementation to optimization. Gain instant access to helpful tutorials, job aids, in-depth, hands on tools, webinars, and educational documents to help your team succeed.

### 7.3. PROJECT TEAM TRAINING

Course Name	# of Seats/Qty	Unit of Measure	Points	Total Points
WFC 7.0 Administering Navigators	3	Seat	600	1800
WFC 7.0 Administering the Application	3	Seat	1200	3600
WTK 7.0 Managing Timecards & Preparing for Payroll	3	Seat	1000	3000
WAM 7.0 Administering the Application: Leave	3	Seat	600	1800



Course Name	# of Seats/Qty	Unit of Measure	Points	Total Points
WAM 7.0 Managing Leave Policies	3	Seat	500	1500
WAM 7.0 Project Team Fundamentals: Leave	3	Seat	275	825
WTK 7.0 Project Team Fundamentals with Calculated Accrual	3	Seat	500	1500

#### 7.4. END USER TRAINING

Service Name	Quantity	Unit of Measure
InTouch Terminal Entering Time Employee Training Kit	1	Unlimited
WFC 7.0 Employee User Adoption Kit	1	Unlimited
WFC 7.0 Timestamp & Timecard Entering Time Employee Training Kit	1	Unlimited
WAM 7.0 Requesting Leave Employee Training Kit	1	Unlimited



## 8. PROJECT COSTS AND RATE SCHEDULES

All estimates are quoted in USD. US Communities contract Pricing.

### 8.1. PROFESSIONAL SERVICES - BY ROLE

Role	Quantity	Unit of Measure	Part Number	Rate	Total
Project Manager	36	HR	9990002-ONL	\$180.00	\$6,480.00
Application Consultant	282	HR	9990002-ONL	\$180.00	\$50,760.00
Technology Consultant	38	HR	9990002-ONL	\$180.00	\$6,840.00
Integration Consultant	32	HR	9990002-ONL	\$180.00	\$5,760.00
<b>Totals:</b>	388				\$69,840.00

### 8.2. PROFESSIONAL SERVICES - BY PRODUCT

Product/Service	Hours
Project Management Services	36
Technology Consulting Services	38
Integration Consulting Services	32
Workforce Timekeeper	190
Data Collection	4
Workforce Absence Manager or Accruals, Attendance, Leave	88
<b>Total Estimated Services</b>	<b>388</b>

### 8.3. EDUCATIONAL SERVICES

Product Name	Part Number	Quantity	Unit of Measure	Rate	Total
KnowledgePass™	8602748-001	1	EA	\$472.50	\$472.50
Bill-As-You-Go Instructor Lead Training	BAYG-ILT	14025	PTS	\$0.90	\$12,622.50
<b>Total Estimated Educational Services</b>					\$13,095.00



#### 8.4. SOLUTION SUMMARY

Service Type	Estimated Cost
Professional Services	\$69,840.00
Educational Services	\$13,095.00
Cloud Services Monthly Fees	\$13,800.00
<b>Total Estimated Investment</b>	<b>\$96,735.00</b>



## 9. SIGNATURES AND APPROVALS

SUBMITTED AND APPROVED BY KRONOS REPRESENTATIVE

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

This Statement of Work is subject to Union Sanitary District's agreement with Kronos governing Professional, Education and Cloud Services. By signing below, Union Sanitary District's authorized representative agrees to purchase the services described herein.

ACCEPTED AND AGREED

Union Sanitary District

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

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## APPENDIX A

### 1.1. Functionality Matrix

See "Attachment D" incorporated into this Scope of Work.

## APPENDIX B

### 1.1. ENGAGEMENT GUIDELINES

Please review the Kronos engagement guidelines:

<http://www.kronos.com/professionalservicesengagementpolicies.aspx>

### 1.2. HOSTING GUIDELINES AND ASSUMPTIONS

- Estimated availability of Production server hardware is approximately 45 to 60 days after contract signature.
- Customer must remain current on Software and Terminal maintenance for the volume of licenses and/or terminals included within the scope of this Service
- One (1) VPN connection shall be made available at no charge, should VPN connectivity be required for any reason. Additional VPN connections are available, if requested, and shall incur additional fees. No more than 3 VPN connections to the Kronos Private Cloud are permitted.
- Should VPN connectivity be required, the Customer shall supply their own VPN hardware capable of establishing an IPSEC tunnel to the Hosting site over the open Internet. Kronos will work with customer Network Engineers to bring up the VPN connection. The customer is responsible for the management of the VPN device on their side, their local Internet connection, as well as the configuration of the tunnel. It is the customer's responsibility to report tunnel connectivity issues, should they occur. Customer understands that they must have the resource knowledge to install and support the customer side of a VPN tunnel.
- In cases where Network Address Translation is required for terminals, the customer is responsible for applying the translations on their network.
- Kronos related Internet traffic cannot be filtered by proxy or caching devices on the client network. Exclusions must be added for the fully qualified domain names and public IP addresses assigned to the environments.
- Custom Reports for Workforce Central are created using Microsoft Visual Studio. A basic version of Visual Studio is included with your installation and will be made available to the customer in their Development environment.
- Customer reports for Workforce HR and Payroll are created with Crystal Reports designer. Should customer require that Crystal be installed in their Development environment additional fees shall apply.



- Transparent Data Encryption is not supported.
- Modem clocks not supported.
- Retention policies must be configured in the application(s). Setting retention policies will ensure that unnecessary system data (i.e. temp files, deleted records, empty rows, etc) is routinely purged from the system and will help in managing database growth.
- Pricing set forth in this document includes sizing considerations based on a 3 year growth projection of the Production database environment. After 3 years an archiving strategy may be reviewed with the Customer.
- *Workforce Record Manager* (if included) – Hosting of Workforce Record Manager requires that an archiving server is included in Customer's solution. When Workforce Record Manager is hosted it may only be used for archiving purposes. Setup Data Manager only supports import and export of configuration via XML files between production environment and development environment, a direct connection between environments is not supported. Customer should open a ticket with Kronos Global Support to request migrations when necessary. Customer is allowed one ticket per month at no charge to request migration of changes. Additional requests for configuration and/or interface migrations between customer environments shall incur a time and materials fee.
- *Workforce Analytics* (if included) – Customer environment shall be designed to support up to 20% of the total licensed users concurrently. Additional concurrent users may require additional infrastructure and associated fees to support.
- The Cloud environment(s) will be sized based upon Kronos Best Practices and the scope of the project, as defined in the Professional Services Statement of Work or Statement of Work. Frequent execution of resource intensive interfaces and/or specialized use cases may require additional infrastructure to support. Kronos will work with the customer to scope the additional requirements. Should additional infrastructure or services be required, incremental fees shall apply. Incremental infrastructure fees will become effective when such changes are available in Customer's Production environment.
- For security purposes, Customers are restricted from accessing the desktop, file systems, databases and operating system of the hosted servers. Additionally, direct database and ODBC connectivity is not permitted.

### 1.3. APPLICATION SECURITY IN THE HOSTED ENVIRONMENT

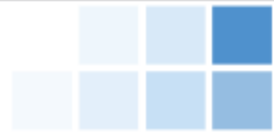
Kronos offers a hosting environment that complements and enhances the ability for Kronos to deliver application services in a secure manner capable of achieving a SSAE 16 SOC 1 and AT101 SOC 2 compliance report. Kronos hosting sites have achieved SSAE 16 SOC 1 and AT101 SOC 2 compliance.

Each customer environment is hosted in a segregated VLAN. Traffic to the VLANs is regulated via redundant, next generation firewalls that limit access to authorized management and customer traffic.

#### **Customer Access**

Customers will access the Kronos web application via encrypted SSL sessions in the hosted environment. The application provides the customer with the ability to configure application security and logical access per customer's business process. In the event the Customer identifies an issue related to the security, availability or confidentiality of the data or system, the Customer will notify Kronos by contacting the Cloud Customer Manager.

Customer may require file transfers to populate or extract Kronos application data. This shall be accomplished using SFTP to send or retrieve files from the customer's application server. Kronos utilizes a commercial SFTP solution that runs over SSH and that enforces a



Public/Private Key Exchange to authenticate the end point and encrypt the data over the wire. In addition, each customer has a unique named user account and associated password. This provides access to allowed endpoints, end point authentication, user authentication, and a private key to encrypt the data. Customer must provide all keys, if keys will be used. SFTP data access cannot be restricted based on IP address.

#### **Kronos Management Access**

Management access to the hosted environment is limited to authorized Kronos support staff and customer authorized integrations. The security architecture has been designed to segregate appropriate logical access to the environment to achieve a SOC 2 compliance standard.

A centralized secure file transfer solution facilitates data transfers between the customer and their hosted environment. This solution provides for an encrypted transmission and logging of all files transferred into or out of a customer environment.

Kronos performs continuous monitoring in the hosted environment to achieve the SSAE 16 SOC 1 and AT101 SOC 2 compliance standards. This includes performance, availability and security monitoring.

## ORDER FORM

**Quote#:** 471421 - 1  
**Expires:** 27-DEC-2014  
**Prepared By:** Kizilbash, Murtz H

**Order Type:** Standard US  
**Date:** 03-NOV-2014  
**Page:** 1/2

**Bill To:** UNION SANITARY DISTRICT  
5072 BENSON ROAD  
UNION CITY  
CA 94587  
United States

**Ship To:** Attn: ROSLYN FULLER  
UNION SANITARY DISTRICT  
5072 BENSON ROAD  
UNION CITY  
CA 94587  
United States

**Solution ID:** 6121399

**Contact:** Rufus Tai  
**Email:** rufust@unionsanitary.ca.gov

**Payment Terms:** N30  
**Currency:** USD  
**Customer PO Number:**

**FOB:** Shipping Point  
**Ship Method:**  
**Freight Term:** Prepay & Add

### Order Notes:

This order entered into between the Customer and Kronos is subject to the terms and conditions of the Contract #14-JLR-003 dated March 18th, 2014 between the Lead Agency (acting as the "Owner") and Kronos Incorporated (as the "Contractor").

Kronos agrees to provide Customer (12 free months) of no cost software support maintenance at the level of support indicated on this Order Form. The value of such free software support maintenance is \$5241.43. Upon expiration of the first twelve (12) months of support, a renewal will be generated at the annualized rate subject to the terms of the agreement.

Your Kronos solution includes:

### SOFTWARE

Item	License/Qty	Total Price
WORKFORCE TIMEKEEPER V7	150	
WORKFORCE MANAGER V7	25	
WORKFORCE EMPLOYEE V7	150	
WORKFORCE ABSENCE MANAGER V7	150	
WORKFORCE INTEGRATION MANAGER V7	150	
<b>Total Price</b>		<b>\$20,965.70</b>

\*Includes applicable software media

### SUPPORT SERVICES

Item	Duration	Total Price
PLATINUM SUPPORT SERVICE	1 YR	\$0.00
<b>Total Price</b>		<b>\$0.00</b>

\*Support values listed above are total for all applicable products in each section of this Order Form

## PROFESSIONAL SERVICES / EDUCATIONAL SERVICES

Item	Quantity	Unit Price	Total Price
MOMENTUM ONLINE REMOTE TEAM	388 Hours		\$69,840.00
Project Manager	36 Hours	\$180.00	
Application Consultant	282 Hours	\$180.00	
Technology Consultant	38 Hours	\$180.00	
Integration Consultant	32 Hours	\$180.00	
KNOWLEDGE PASS	1 Each	\$0.00	\$0.00
ED SERVICES SUBSCRIPTION	1 Contract	\$472.50	\$472.50
BILL-AS-YOU-GO INSTRUCTOR LEAD TRAINING	14025 Points	\$0.90	\$12,622.50
<b>Total Price</b>			<b>\$82,935.00</b>

Item	Quantity	Total Price
CLOUD HOSTING WFC BASE FEE PER MONTH	12	\$12,000.00
CLOUD HOSTING WFC PER EMPLOYEE FEE PER MONTH	12	\$1,800.00
<b>Total Price</b>		<b>\$13,800.00</b>

## QUOTE SUMMARY

Description	Total Price
Subtotal	\$117,700.70
Deposit	(\$0.00)
Tax	\$0.00
<b>Grand Total</b>	<b>\$117,700.70</b>

### UNION SANITARY DISTRICT

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Effective Date: \_\_\_\_\_

### Kronos Incorporated

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Effective Date: \_\_\_\_\_

*Invoice amount will reflect deposit received. All professional services are billed as delivered with a payment term of Net Upon Receipt. Unless otherwise indicated above, this order is subject to the attached terms and conditions which the customer acknowledges have been read. THIS ORDER IS SUBJECT TO APPLICABLE TAXES. THE TAX AMOUNT SHOWN ON THIS ORDER IS ONLY AN ESTIMATE. THE ACTUAL TAX AMOUNT TO BE PAID BY CUSTOMER WILL BE SHOWN ON CUSTOMER'S INVOICE. The JBoss® Enterprise Middleware components embedded in the Software are subject to the End User License Agreement found at [http://www.redhat.com/licenses/jboss\\_eula.html](http://www.redhat.com/licenses/jboss_eula.html). Shipping and handling charges will be reflected on the final invoice.*

## ATTACHMENT D (REVISED 07/25/14)

### Functionality Matrix to Attachment C

Fully Meet: Included in Base Out-of-Box System

Meet with Configuration: Needs configuration by USD Payroll or Vendor

Meet with Customization: Not included – Customized Solution

Meet with 3rd Party: Requires the purchase of a 3rd party application

Cannot Meet

Other

Comments: Include any information you deem necessary for us to make an informed decision on this requirement other than what is included.

Please refer to Attachment C for Pay Rule detail.

### 1. Administration

<u>Pay Rule #</u>	<u>Description</u>	<u>Importance</u>	<u>Fully Meet</u>	<u>Meet with Config</u>	<u>Meet with Customization</u>	<u>Meet with 3rd party</u>	<u>Cannot Meet</u>	<u>Other</u>	<u>Comment</u>
5.3	Class differential set-up (pay and class code)	High							
NA	Delegate leave request approval authority – workgroup (department)	Med							
NA	Delegate on-call schedule assignment authority – workgroup (department)	Med							
NA	Delegate schedule assignment authority – workgroup (department)	Med							
NA	Delegate timecard approval authority - lateral (across departments) or up	High							
1.1	Employee Profile Status - Unclassified, etc	High							
1.2	Employee Profile Types – Exempt, etc	High							
	Rule assignments by profile type	Med							
2	Schedules - 12 Hour Rotating	High							

2	Schedules – Alternate (9/80, 4/10)	High							
2	Schedules – Standard (8 hour days)	High							
8.1	Worker's comp - injury / setup (per injury)	Med							
NA	Timecard auto population	Low							
3	Pay codes - classifying into pay employee groups (i.e. Plant Operators, operational staff, etc)	High							
NA	Extract timecards for upload to payroll system	High							
NA	Approved Leave request - auto population to timecard	Low							
7.2	Vacation accrual chart with Maximum limits (by EE profile type)	High							

## 2. Business Rules [Policy / Contract Compliance]

*Warning / error notifications for users and approvers*

<u>Pay Rule #</u>	<u>Description</u>	<u>Importance</u>	<u>Fully Meet</u>	<u>Meet with Config</u>	<u>Meet with Customization</u>	<u>Meet with 3rd party</u>	<u>Cannot Meet</u>	<u>Other</u>	<u>Comment</u>
2.2	40 Hours Per Week on timecard (validation)	Med							
4.3.(f), 7.1	Flex & HEC Validation	Low							
7.4	FMLA tracking - rolling 12 month limit	Low							
7.6	Funeral leave >24 hours	Low							

2.3	Greater than 16 hours worked in day	Low							
NA	Insufficient Leave (each leave bank should have this)	Med							
NA	Invalid Holiday	Low							
NA	Overlapping time entries	Low							
NA	Regular hours entered, no schedule	Low							
7.4	Sick leave balance <=27 hours check CAT eligibility	Low							
7.2	Vacation - Classified employees not eligible to use during first 6 months	Low							
8.1	Worker's comp - time off (1040 hours limit per injury)	Low							

### 3. Pay Rules

<u>Pay Rule #</u>	<u>Description</u>	<u>Importance</u>	<u>Fully Meet</u>	<u>Meet with Config</u>	<u>Meet with Customization</u>	<u>Meet with 3rd party</u>	<u>Cannot Meet</u>	<u>Other</u>	<u>Comment</u>
5.5	Call Back – Minimum (difference if worked less than guaranteed minimum)	Med							
5.5	Call Back – Pay at 1.5X	High							
5.5	Call Back by Phone – Minimum (difference if worked less than guaranteed minimum)	Med							
5.5	Call Back by Phone – pay at 1.5X	High							



5.3	Class Differential - flat rate	High							
5.3	Class Differential - percentage	High							
4.3	FLEX Cash Back	Low							
5.2	Night shift change - 2 shifts start on same calendar day	High							
5.2	Night shift change - vacation accrual	Med							
5.2	Night shift change < 48 hrs notice pay	Med							
6.4(b)	Holiday Banked - rotating operator	Med							
6.4(b)(2)	Holiday Normal Off - rotating operator	Med							
6	Holiday profiles	High							
6.4(b)	Holiday Worked - rotating operator (special rules)	Med							
6.4(b)(1)	Holiday Worked (overtime)	Med							
7.3	MAL Cash Back	Low							
5.8	Meal allowance for overtime	Low							

5.8	Meal allowance for overtime - callback	Low							
5.8	Meal allowance for overtime - scheduled OT	Low							
5.7	OC Differential	Low							
5.4	On-Call scheduling and associated pay	High							
4.3	OT Banked – Classified (aka Comp Time; converts to Flex Leave)	High							
4.4	OT Banked – Unclassified (aka Comp Time; eligible for use next FY)	High							
4.2	Overtime (weekly – greater than 40 hours paid with exceptions)	High							
2.3, 5.1	Night Shift Differential 12% - rotating operator only	High							
2.3, 5.1	Grave Shift Differential 7% - non-exempt employees excluding rotating operator	High							
2.3, 5.1	Swing Shift Differential 5% - currently 1 classified employee	High							
NA	Timecard corrections for prior pay periods – for payroll staff only	Med							
7.2	Vacation Cash Back	Low							
4.4	OT Bank Use Cash Back	Low							

#### 4. Reporting

<u>Pay Rule #</u>	<u>Description</u>	<u>Importance</u>	<u>Fully Meet</u>	<u>Meet with Config</u>	<u>Meet with Customization</u>	<u>Meet with 3rd party</u>	<u>Cannot Meet</u>	<u>Other</u>	<u>Comment</u>
NA	Attendance/Reason Codes	High							
5.3	Class differential hours and pay	Med							
7.1	Leave banks - including balance, accrual and usage by EE profile type	High							
NA	On-Call Schedules	Low							
NA	Report Builder module	Med							
8.1	Worker's comp - time off per injury	Med							

#### 5. Tracking

<u>Pay Rule #</u>	<u>Description</u>	<u>Fully Meet</u>	<u>Meet with Config</u>	<u>Meet with Customization</u>	<u>Meet with 3rd party</u>	<u>Cannot Meet</u>	<u>Other</u>	<u>Comment</u>

**CONTRACT #14-JLR-003**

THIS AGREEMENT, made this 18th day of March, 2014, by and between Harford County Public Schools, hereafter called "Owner" and Kronos Incorporated, a corporation at 297 Billerica Road, in the City of Chelmsford and State of Massachusetts, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR, hereby agrees with the OWNER to commence and complete the services described as follows:

**RFP 14-JLR-003: Workforce Management System**

Furnish, supply and deliver Workforce Management software in accordance and compliance with all specifications, terms and conditions set forth in RFP #14-JLR-003, and subsequent terms and conditions attached herein.

Hereinafter called the contract, for the period March 18, 2014 through March 17, 2017, and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the RFP Document; and the related terms and conditions attachment, at his (its or their) own proper cost and expense to furnish all the materials, supplies, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Final Proposal, all of which are made a part hereof and collectively evidence and constitute the Contract.

This is an indefinite quantity contract with no specific assigned dollar value.

IN WITNESS WHEREOF, the parties to these presents have executed this in the year and day first above mentioned.

Harford County Public Schools

Jeffrey LaPorta  
Jeffrey LaPorta, CPPB, Supervisor of Purchasing

3/6/14  
Date

Kronos Incorporated  
Company Name

John O'Brien  
Company Representative Printed Name

Sr. Vice President, Americas  
Company Representative Title

[Signature]  
Company Representative Signature

2/21/14  
Date

**KRONOS TERMS AND CONDITIONS FOR PARTICIPATING PUBLIC AGENCIES ADMINISTERED BY US COMMUNITIES (103113V1)**

**KRONOS TERMS**

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

**SECTION A: GENERAL TERMS AND CONDITIONS. This Section apply for all transactions.**

**SECTION B: TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND PROFESSIONAL SERVICES. This Section apply for all transactions except Workforce Ready and the Workforce Central SaaS offering ( not including the professional and educational services governed by this Section).**

**SECTION C: CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and Identified as CLOUD 2.**

**SECTION C-1: APPLICATION HOSTING TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and Identified as CLOUD.**

**SECTION D: KRONOS WORKFORCE CENTRAL SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Central transactions in a SaaS environment (except for the related professional and educational services see Section B)**

**SECTION E: KRONOS WORKFORCE READY SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Ready transactions.**

## SECTION A: GENERAL TERMS AND CONDITIONS

### 1. APPLICATION OF THESE TERMS

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

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

- (i) Section B shall apply to the Software licenses and purchased Equipment, support services, and professional and educational services,
- (ii) Section C shall apply to the Hosting Services purchased in connection with certain Software licensed under Section B,
- (iii) Section D shall apply to the Workforce Central SaaS Orders; and
- (iv) Section E shall apply to the Workforce Ready SaaS Order.

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

### 2. APPLICABLE LAWS

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

### 3. EXPORT

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

### 4. CONFIDENTIAL INFORMATION

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

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

### 5. TAXES

If Customer presents to Kronos a validly issued tax-exempt certificate, or other sufficient evidence of tax exemption, Customer shall not be liable for those taxes for which Customer is exempt. Otherwise, Customer agrees to pay all other applicable duties and customs fees relating to this Agreement, as well as all taxes levied or based on the products, services or other charges hereunder, including federal, state and local sales and excise taxes, and any taxes or amount in lieu thereof paid or payable by Kronos, exclusive of taxes based on Kronos net income or business privilege.

### 6. TRAVEL EXPENSES

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

### 7. GENERAL

- (a) The invalidity or illegality of any provision of this Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.
- (b) Customer shall not assign this Agreement or the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.
- (c) Neither Party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement (other than a failure to comply with payment obligations) where and to the extent that such failure or delay results from an unforeseeable event beyond a party's

reasonable control, including but not limited to, acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefor, or lack of or delay in transportation (each a "Force Majeure Event").

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

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

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

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

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

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

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

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

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

**1. PAYMENT AND DELIVERY**

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

**2. GENERAL LICENSE TERMS**

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

**3. FEE BASED LIMITATIONS**

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

**4. OBJECT CODE ONLY**

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

**5. PERMITTED COPIES**

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

**6. UPDATES**

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

**7. ACCEPTANCE**

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

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

**8. LIMITED WARRANTY**

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



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

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

## **9. PROFESSIONAL AND EDUCATIONAL SERVICES**

### **(a) ENGAGEMENTS**

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

### **(b) WARRANTY**

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

### **(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES**

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

## **10. SOFTWARE SUPPORT SERVICES**

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

### **10.1 SUPPORT OPTIONS**

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

### **10.2 TERM OF SOFTWARE SUPPORT**

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

### **10.3 GOLD SERVICE OFFERINGS**

Customer shall be entitled to receive:

- (i) Updates for the Software (not including any Software for which Kronos charges a separate license fee), provided that Customer's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Kronos. If Customer requests Kronos to install such Updates or to provide retraining, Customer agrees to pay Kronos for such installation or retraining at Kronos' pricing set forth in this Agreement.
- (ii) Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.
- (iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Customer forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at <http://www.kronos.com/services/support-services.aspx>.
- (iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.
- (v) Access to specialized content as and when made available by Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

#### **10.4 PLATINUM AND PLUS SERVICE OFFERINGS:**

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

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

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

#### **10.5 PAYMENT**

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

#### **10.6 ADDITION OF SOFTWARE**

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

#### **10.7 RESPONSIBILITIES OF CUSTOMER**

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

#### **10.8 DEFAULT**

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

#### **10.9 WARRANTY**

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

### **11. EQUIPMENT SUPPORT SERVICES**

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

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

#### **11.1 TERM**

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

#### **11.2 PAYMENT**

Customer agrees to pay the Support Charges for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), will be subject to this Agreement. Customer agrees that if Customer purchases, during the term of this Agreement, any Products of the same type as those specified on an Order Form, such additional Products shall be subject to this Agreement. Customer agrees to pay a prorated fee for such additional Products and agrees to pay the full annual fee for such additional Products, upon the renewal date. Kronos will invoice Customer for the annual Support Charges each year in advance of the Renewal Date. Customer will pay Kronos within thirty (30) days of receipt of invoice.

#### **11.3 DEPOT SUPPORT SERVICE DESCRIPTION**

Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and can be found at <https://customer.kronos.com/contact/contact-phone.aspx> and are subject to change. Return and repair

procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies. Service packs for the Equipment (as described in subsection (b) below) are included in both Depot Exchange and Depot Repair Support Services.

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

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

Kronos warrants that all repairs performed under the Agreement shall be performed in a professional and competent manner. In the event of a breach of this warranty, the exclusive remedy of Customer and sole liability of Kronos shall be replacement of the repaired Equipment.

#### 11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION

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

(i) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and

(ii) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment. Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos.

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

#### 11.5 RESPONSIBILITIES OF CUSTOMER

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

- (a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;
- (b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;
- (c) Ensure that the Product(s) are returned to Kronos properly packaged; and
- (d) Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by Kronos when issuing the RMA.

#### 11.6 SUPPORT EXCLUSIONS

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

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

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

#### 11.7 WARRANTY

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

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

#### 11.8 LIMITATION OF REMEDIES

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

## 12. KRONOS SUPPORT SERVICE POLICIES

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

## 13. FIRMWARE

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

## 14. TRAINING POINTS

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

## 15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

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

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

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

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

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

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

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

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

## 16. INDEMNIFICATION

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

## 17. LIMITATION OF LIABILITY

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

EXCEPT FOR i) KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 16 ABOVE; (ii) CUSTOMER'S CLAIMS FOR TANGIBLE PROPERTY DAMAGE OR PERSONAL INJURY TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY'S EMPLOYEES, IN NO EVENT SHALL KRONOS' OR ITS PARENTS', SUBSIDIARIES', AFFILIATES', OR THIRD PARTY LICENSOR'S LIABILITY TO A CUSTOMER, HOWSOEVER CAUSED, EXCEED THE VALUE OF THE ORDER WHICH GIVES RISE TO

THE CLAIM, AND IN NO EVENT WILL KRONOS OR ITS PARENTS, SUBSIDIARIES AFFILIATES OR THIRD PARTY LICENSORS BE LIABLE FOR LOST PROFITS, LOST DATA OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR CUSTOMER'S SPECIFIC USE OF, OR INABILITY TO SO USE, ANY EQUIPMENT, SOFTWARE OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

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

These terms and conditions apply to the cloud services which are identified in the Pricing as the Cloud 2 in the Pricelist Name.

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

**1. DEFINITIONS**

"Application(s)" means those Kronos software applications set forth in the Cloud Hosting SSS which are made accessible for Customer to use under the terms of this Addendum.

"Application Hosting Program" or "Program" means (i) accessibility to the Applications, by means of access to the password protected customer area of the Kronos hosting environment, and (ii) all Hosting Related Services.

"Content" means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos.

"Hosting Related Services" means certain services set forth in a Services Scope Statement (SSS) containing hosted related services (the "Cloud Hosting SSS"), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

"Initial Term" means the initial term of the Program as set forth in the applicable Cloud Hosting SSS.

"Internal Use" means the use of the Program: (i) by Customer's personnel solely for Customer's internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer's employees assigned to, or potential employees of, Customer's authorized business unit(s), solely for the internal business purposes of such business unit(s).

"Monthly Service Fee(s)" means the monthly fees described in the Cloud Hosting SSS and set forth on the applicable Order Form..

"Order Form" means the order request form supplied by Kronos and signed by the Parties that lists the fees for the elements of Customer's particular Program.

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

"Production Environment" means a permanent environment established for the daily use and maintenance of the Applications in a live environment throughout the term of a Program.

"Service Description" means the detailed service description (including any supplementary service terms) specified in the Cloud Hosting SSS which sets forth the specific Program to be provided to the Customer.

"SLA(s)" means a service level agreement offered by Kronos for the Production Environment and attached to this Section C as Exhibit A which contains key service level standards and commitments that apply to the Program as detailed in the Service Description.

"SLA Credit" means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

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

"Temporary Environment" means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Hosting SSS as a Temporary Environment.

**2. CLOUD HOSTING SERVICES SCOPE STATEMENT**

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, and other fees, if any, applicable to the Program are described in the applicable Cloud Hosting SSS and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer's existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Hosting SSS indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

**3. AUTHORIZED USE**

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section C.

#### **4. MAINTENANCE ACCESS**

If Kronos, its Suppliers, or the local access provider, as applicable, requires access to Customer sites in order to maintain or repair the Program, Customer shall cooperate in a timely manner and reasonably provide such access and assistance as necessary. As part of Kronos' support services, Kronos will make updates to the Applications available to Customer at no charge as they are released generally to Kronos' customers. Customer agrees to receive those updates automatically as part of the Program. Customer may be required to purchase additional Hosting Related Services to address infrastructure requirements as released by Kronos for a new version of a particular Application.

#### **5. CUSTOMER REPRESENTATIONS AND WARRANTIES; CUSTOMER OBLIGATIONS**

5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.

5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Hosting SSS and Order Form.

5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

#### **6. CONNECTIVITY AND ACCESS**

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

#### **7. FEES AND PAYMENT TERMS**

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the date the Order Form and SSS are signed by the parties, and shall be invoiced annually in advance.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be net 30 days following receipt of invoice.

7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be paid by Kronos in the month following the month in which the SLA Credits were earned.

#### **8. SERVICE LEVEL AGREEMENT**

CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS ADDENDUM OR THE LICENSE AGREEMENT. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.

#### **9. LIMITATION OF LIABILITY**

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

#### **10. DATA SECURITY**

10.1 As part of the Program, 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/smb-solutions/workforce-central-saas/security-description.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.

10.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only

for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under this Agreement or as required by law.

10.3 Prior to initiation of the Program 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 Program. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' 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.

#### **11. TERM AND TERMINATION**

11.1 At the expiration of the Initial Term, the applicable Program shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C if such breach is not cured within ten (10) days of the date of Kronos' written notice. No Program Interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

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

11.3 Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

11.4 In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the applicable Monthly Services Fees.



## EXHIBIT A

### SERVICE LEVEL AGREEMENT (SLA)

**Service Level Agreement:** The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), 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 Services. 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) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined 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 product documentation for such Application.

**"Maintenance Period"** means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday      04:00 am – 06:00 am (U.S. eastern time)  
Saturday and Sunday        12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

**"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.

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

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

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

**SECTION C.1:  
APPLICATION HOSTING TERMS AND CONDITIONS .**

**This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B in relation with hosting pricing referred to as CLOUD  
This attachment does not apply to CLOUD 2 items.**

**APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS**

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement using the pricing set up on November 21, 2013.

**definitions**

**"Application Hosting Program" or "Program"** means (i) accessibility to the commercially available object code version of the Kronos hosted applications, as set forth in the Cloud Services SOW, by means of access to the password protected customer area of the Kronos hosting environment, and (ii) all Hosting Related Services.

**"Content"** means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos or a Supplier.

**"Hosting Related Services"** means certain services set forth in a statement of work containing hosted related services (the "Cloud Services SOW"), such as hosting Infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

**"Initial Term"** means the initial term for which Kronos shall provide the Program to Customer and as set forth in the applicable Cloud Services SOW executed by Customer.

**"Internal Use"** means the use of the Program: (i) by Customer's personnel solely for Customer's Internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer's employees assigned to, or potential employees of, Customer's authorized business unit(s), solely for the Internal business purposes of such business unit(s).

**"Monthly Service Fee(s)"** means the monthly fees described in the Cloud Services SOW and set forth on the applicable Order Form, which shall include all Hosting Related Services fees.

**"Order Form"** means the order request form supplied by Kronos and signed by the Parties that lists the Startup Fees and Monthly Service Fees for the elements of Customer's particular Program.

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

**"Production Environment"** means a permanent environment established for the daily use and maintenance of the Application in a live environment throughout the term of a Program.

**"Services Commencement Date"** shall, except as otherwise provided in writing in a Cloud Services SOW or Order Form signed by the parties, mean the earlier of (a) the date the Software is transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date.

**"Service Description"** means the detailed service description (including any supplementary service terms) specified in the Cloud Services SOW which sets forth the specific Program to be provided to the Customer.

**"SLA(s)"** means a service level agreement offered by Kronos for the Production Environment and attached to this Section C.1 as Exhibit A.1 which contains key service maintenance standards and commitments that apply to the Program as detailed in the Service Description.

**"SLA Credit"** means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

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

**"Temporary Environment"** means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Services SOW as a Temporary Environment.

**"Startup Fees"** means the one time, customer-specific startup fee as indicated on the Order Form that will be charged to Customer to enable access to the Program.

**Cloud Services STATEMENT OF WORK**

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, the Startup Fees and other fees, if any, applicable to the Program are described in the applicable Cloud Services SOW and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer's existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee

rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Services SOW indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

#### **Authorized Use**

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this section C.1.

#### **MAINTENANCE ACCESS**

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

#### **Customer representations and warranties; Customer obligations**

**5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.**

**5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.**

**5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Cloud Services SOW. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Services SOW and Order Form.**

**5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.**

#### **6. INTERNET ACCESS**

**6.1 If Customer uses open Internet connectivity or Customer-supplied VPN Internet connections to access the Program, Customer acknowledges that the performance and throughput of the Internet connection cannot be guaranteed by Kronos, and variable connection performance may result in application response variations.**

**6.2 Customer hereby acknowledges that the Internet is not owned, operated, managed by, or in any way affiliated with Kronos, its Suppliers or any of its affiliates, and that it is a separate network of computers independent of Kronos. Access to the Internet is dependent on numerous factors, technologies and systems, many of which are beyond Kronos' authority and control. Customer acknowledges that Kronos cannot guarantee that the Internet access services chosen by Customer will meet the level of up-time or the level of response time that Customer may need. Customer agrees that its use of the Internet access services and the Internet is solely at its own risk, except as specifically provided in this Section C.1, and is subject to all applicable local, state, national and international laws and regulations.**

#### **7. Fees and payment terms**

**7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the Services Commencement Date, and shall be invoiced monthly in advance. In addition, Customer shall be billed the Startup Fees and any additional Cloud Hosting startup fees set forth in the applicable Order Form. Customer acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.**

**7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be net 30 days following receipt of invoice. All overdue payments shall bear interest at the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed under applicable law. Customer is responsible for all federal, state or local taxes, duties and customs fees relating to the Program, excluding taxes based on Kronos' income or business privilege.**

**7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be included in the Monthly Service Fee invoice issued by Kronos for the month following the month in which the SLA Credits were earned.**

#### **8. SERVICE LEVEL AGREEMENT**

**CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS SECTION C.1 OR SECTION B. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.**

#### **9. Limitation of liability**

**IN ADDITION TO THE LIMITATIONS SET FORTH IN THE LICENSE AGREEMENT, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR**

APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

#### **10. DATA SECURITY**

10.1 As part of the Program, Kronos shall provide those Kronos security-related services described in the Cloud Services SOW. Customer acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular security-related service as just one tool to be used as part of an 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.

10.2 All Personally Identifiable Data contained in any Software, Equipment or systems supplied by Kronos, or to which Kronos has access to under this Section C.1, as between Kronos and Customer, is Customer's Confidential Information and will remain the property of Customer. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data only for the purposes described herein and to the extent such use or processing is necessary for Kronos to carry out its duties and responsibilities under this Section C.1 or as required by law.

10.3 Prior to initiation of the Program 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 and which could be imposed on Kronos as a result of provision of the Program. Customer will ensure that: (a) the transfer and storage of any Personally Identifiable Data to Kronos and managed by Kronos' or Supplier's data center is legitimate under applicable data protection laws and regulations; and (b) Customer will obtain consent from individuals for such transfer and storage to the extent required under applicable laws and regulations.

10.4 At no cost to Customer, Kronos shall upon (i) request by Customer at any time and (ii) the cessation of the Program, promptly return to Customer, in the format and on the media in use as of the date of the request, all Personally Identifiable Data.

#### **11. term and termination**

11.1 At the expiration of the Initial Term, the applicable Programs shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C.1. No Program interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

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

12.3 Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

12.4 In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the then-current Monthly Services Fees.

**EXHIBIT A.1  
TO SECTION C.1  
SERVICE LEVEL AGREEMENT (SLA)**

**Service Level Types:** SLAs are only applicable to Production Environments. The Program, in a Production Environment, as described in the Service Description is provided with the following service level:

**99.50% Application Availability**

**Service Levels/Credit Calculation:** An Outage will be deemed to commence when Customer opens a case with Kronos Global Support, or Kronos Cloud Services receives an application availability alert. The Outage will be deemed to end when Kronos has restored availability of the Program. Failure to meet the above service levels will entitle Customer to credits as follows.

<b>99.50% Application Availability SLA – Production Environment</b>	
<b>Uptime percentage (as measured in a calendar month)</b>	<b>Affected Service Credit</b>
The amount of the Credit will be determined as follows:	
<99.50% to 98.75%	15%
<98.75% to 98.25%	20%
<98.25% to 97.75%	35%
<97.75 to 96.75%	50%
<96.75	75%

**Application Availability SLA% = ((MM-TM)\*100) / (MM)**

**Definitions**

"Affected Service" means the monthly fees paid for the hosting of the Program.

"Excluded Event" means any event that adversely impacts the Program that 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 or Supplier; (c) Force Majeure events; (d) scheduled or emergency maintenance, alteration or implementation; (e) any suspension of the Program in accordance with the terms of this Section or License Agreement; (f) the unavailability of required Customer personnel, including as a result of failure to provide Supplier with accurate, current contact information; (g) using the Application in a manner inconsistent with the product documentation; or (h) any other exclusionary circumstance specified in the applicable Cloud Services SOW.

"Monthly Minutes (MM)" means total minutes in which service was scheduled to be available.

"Outage" means the accumulated time during which Customer is unable to establish an active communications connection, measured from beginning to end, between Customer and the Program for reasons other than (a) failures caused by Customer Data; or (b) any Excluded Events.

"Scheduled Maintenance (SM)" means scheduled maintenance periods established by Kronos to provide ample time to maintain and update the applications, when necessary. During these maintenance periods, the applications are available to Kronos to perform periodic services, which include vital software updates. Systems will generally continue to be available to Customer; however, some changes will require planned downtime. Kronos will provide notice for planned downtime via an email notice to our primary Customer contact at least one day in advance of such shutdown/restart so planning can be facilitated by Customer.

When application maintenance is required, current Scheduled Maintenance periods for the applications are:

Monday through Friday	4am – 6am
Saturday and Sunday	12am - 6am

- All times listed are U.S. Eastern Time.
- Kronos' utilization of the above maintenance windows shall not trigger SLA Credits to Customer.

"Total Minutes Not Available" (TM) means the total number of minutes during the calendar month that the Program is unavailable outside of scheduled maintenance windows.

**Limitations:** Kronos will apply any credits to the Customer account. Credits will not be provided if: (a) Customer is in breach or default under this Section or the Program at the time the Outage occurred and such breach is the cause of the Outage; or (b) it results from an Excluded Event.

In no event will the credits accrued in any calendar month exceed, in the aggregate across all service levels and events, one hundred (100%) of the Invoice amount for the Affected Service.

The Service Level Agreements in this Exhibit, and the related credits listed, apply on a per Program basis. For the avoidance of doubt, Outages, delays, failures, etc. in one Program may not be added to Outages, delays, failures, etc. in any other Program for purposes of calculating SLA credits.

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

Customer and Kronos agree that the terms and conditions set forth in this Section D shall apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications and related services and materials (including applicable documentation) and Equipment (if any) specified on an Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

**1. DEFINITIONS**

"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 Section D.

"Cloud Services" means those services related to Customer's hosting environment such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto. Unless otherwise set forth in a Statement of Work, Cloud Services are described as set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidelines.aspx>

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

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

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

"Implementation Services" means those services provided by Kronos to set up the hosting environment and configure the Services, including educational services and training. Unless otherwise set forth in a Statement of Work, Kronos' and Customer's implementation responsibilities are described in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidelines.aspx> Implementation Services may be provided as forth in Section B

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

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

"Minimum Contract Value" means the total of all Monthly Service Fees to be invoiced during the Initial Term.

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

"Services" means (i) accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, (ii) the Equipment purchased or rented hereunder, (iii) the Implementation Services and Cloud Services, and (iv) such other services, items and offerings set forth on an Order Form.

"Start Date" means the date billing commences for the Services (excluding the Implementation Services) as indicated on the applicable Order Form. For any Services ordered by Customer after the date of this Section D which are incremental to Customer's then-existing Services, the Start Date shall be the date the applicable Order Form is executed by Kronos and Customer.

"Statement of Work", "SOW", "Services Scope Statement" and "SSS" are interchangeable terms referring to a written description of the Implementation Services and Cloud Services as mutually agreed upon by Kronos and Customer. An SOW supersedes any implementation guidelines or descriptions on a web page referenced in this Section D.

"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 Program.

"Term" means the Initial Term and any monthly renewals thereafter, as further set forth in Section 2.1.

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

**2. TERM**

2.1 The Services shall commence on the Start Date, and shall continue for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term, the Term shall automatically renew on a month-to-month basis until terminated in accordance with the provisions hereof. 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.

2.2 At any time after the Initial Term: (i) Customer may terminate the Services for convenience upon thirty (30) days prior written notice, and (ii) Kronos may terminate the Services for convenience upon ninety (90) days prior written notice.

2.3 Either party may suspend or terminate the Services upon a material breach of this Section D by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services immediately upon notice in the event of any Customer breach of Sections 3 (Right to Use), 4 (Acceptable Use), or 14 (Confidential Information).

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 Services immediately upon written notice to the other party.

2.5 If the Services are terminated for any reason:

- (a) Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued for the Services prior to the date of termination, provided that if Customer terminates for material breach of this Section D by Kronos, Kronos shall be responsible to refund to Customer unused pre-paid Implementation Service fees, if any;
- (b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;
- (c) No more than fifteen (15) days after termination or upon Customer's written request at any time during the Term, Kronos will provide to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and may delete any or all Customer Content without liability.
- (d) 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
- (e) all provisions in this Section D, which by their nature are intended to survive termination, shall so survive.

### 3. FEES AND PAYMENT

3.1 In consideration of the delivery of the Services, 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. If Customer and Kronos have signed a Statement of Work for the Implementation Services, Implementation Services such services will be provided and payable in accordance with Section B. All fees payable for the Services shall be sent to the attention of Kronos as specified on the Invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Except as expressly set forth in this Section D, all amounts paid to Kronos are non-refundable. Customer acknowledges that fees may be charged to Customer by third parties for add-on features or functionality provided by such third parties.

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

3.3 Deleted Intentionally.

3.4 Customer agrees that except if Customer terminates for material breach of this Section D by Kronos, if Customer has not paid the Minimum Contract Value to Kronos at the conclusion of the Initial Term or the earlier termination of the Services, whichever is earlier, Kronos shall bill, and Customer shall pay within thirty (30) days of the date of such invoice, the difference between the total Monthly Service Fees then paid by Customer and the Minimum Contract Value, less SLA Credits, if any, that have been earned previously by Customer but not yet credited.

### 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 Application(s) and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which are included in the Services, excluding such Third Party software, libraries or other components as are licensed directly from such Third Parties. 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 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.

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

### 5. ACCEPTABLE USE

5.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section D.

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in the Services. Customer represents and warrants to Kronos that the Customer Content does not: (a) infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) be abusive, profane, or offensive to a reasonable person, or, (c) be hateful or threatening.

5.3 Customer will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

## 6. CONNECTIVITY AND ACCESS

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

## 7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Kronos will provide the Implementation Services to Customer. Implementation Services described in an SSS are provided on a time and materials basis, billed monthly as delivered. Implementation Services described in the Services Implementation Guideline are provided on a fixed fee basis. If Customer requests additional Implementation Services beyond those described in the SSS, Kronos will create a change order for Customer's review and approval and any additional Implementation Services to be provided by Kronos in accordance with Section B. Kronos' configuration of the Applications will be based on information and work flows that Kronos obtains from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met.

7.2 Additional Services. Customer may engage Kronos to provide other services which may be fixed by activity or provided on a time and materials basis as indicated on the applicable Order Form.

7.3 Support. Kronos will provide 24x7 support for the hosting infrastructure, the availability to the hosting 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 such updates automatically as part of the Services.

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

(a) 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.

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

(c) Customer shall be entitled to receive 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 Kronos.

(d) Kronos warrants that all service packs and firmware updates provided under this Section D shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s).

(e) 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, in all circumstances, Customer agrees to:

(i) Maintain the Equipment in an environment conforming to the Documentation 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.

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

7.6 Training Points. "Training Points" which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions



offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

**7.7 Training Courses.** When Implementation Services are described in the Services Implementation Guideline rather than 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: <http://www.kronos.com/products/smb-solutions/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.

## **8. CUSTOMER CONTENT**

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers and to disclose such aggregated information for its customers generally. In addition, Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with this Section D 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** 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 this Section D.

b) **Insurance.** Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from Customer's obligations under this Section D.

c) **Location/Replacement.** Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

d) **Ownership.** All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).

e) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in Section 7.

f) **Return of Equipment.** Upon termination of the Services, Customer agrees that Customer shall return the Equipment to Kronos within thirty (30) days at Customer's expense. 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** The following terms apply only to Equipment Customer purchases from Kronos:

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

b) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described herein if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

## **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 and when used as authorized herein, will perform substantially in accordance with such documentation during the Term.

**11.2** Kronos' sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Services for cause in accordance with Section 2 above as Customer's sole and exclusive remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

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

a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or

- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF 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/smb-solutions/workforce-central-saas/security-description.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 this Section D.

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

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

## 13. INDEMNIFICATION

13.1 Kronos shall defend Customer and its respective directors, officers, and employees (collectively, the "Customer Indemnified Parties"), from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party (each a "Claim") alleging that the permitted uses of the Services infringe or misappropriate any United States or Canadian copyright or patent and will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claim by a court of applicable jurisdiction or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of such copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in this Section D, (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 Services and the rights granted hereunder after provision of a refund to Customer of the Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

13.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with Kronos' documentation for such Service or as authorized by this Section D; (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 this Section D. Notwithstanding the foregoing, with regard to infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such infringement claims, provided that Kronos or Kronos' Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor.

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

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

## 14. LIMITATION OF LIABILITY

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

14.2 Except for Kronos' indemnification obligations set forth in section 13 above, the total aggregate liability of Kronos or Kronos' suppliers to

customer and/or any third party in connection with this Section D shall be limited to direct damages proven by customer, such direct damages not to exceed an amount equal to the total net payments received by Kronos for the services in the twelve (12) month period immediately preceding the date in which such claim arises.

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

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

## EXHIBIT A

### SERVICE LEVEL AGREEMENT (SLA)

**Service Level Agreement:** The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), 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 Services. 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) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined 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 product documentation for such Application.

**"Maintenance Period"** means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday      04:00 am – 06:00 am (U.S. eastern time)  
Saturday and Sunday        12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

**"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.

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

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

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

## SECTION E

### KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS

Customer and Kronos agree that the terms and conditions set forth in this Section E shall apply to the Kronos software application programs and related services and materials (including applicable documentation) and equipment (if any) specified on an Order Form for Workforce Ready (collectively, the "Services"). The Services described on an Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

#### 1. TERM

1.1 The Services shall be deemed to start on the earlier of: a) ninety (90) days from Kronos' receipt of the relevant Order Form; or, b) the date Customer is authorized to "go live" with the Services for production purposes, (the "Start Date"), and shall continue indefinitely on a month-to-month basis until terminated in accordance with the provisions hereof (the "Term"). Customer acknowledges that execution of separate third party agreements may be required in order for Customer to "go live" with certain add-on features or functionality, including tax filing services ("Add-on Features"), as identified by Kronos on the Order Form.

1.2 Customer may terminate the Services or the Agreement for convenience upon thirty (30) days prior written notice.

1.3 Either party may suspend or terminate the Services or 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. Notwithstanding the foregoing, Kronos may suspend or terminate the Services or the Agreement immediately upon notice in the event of any Customer breach of Sections 3 (License to Use), 4 (Acceptable Use), or Section A.4 (Confidential Information), below.

1.4 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, files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to comply with such request 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.

1.5 If the Agreement is terminated for any reason:

- (a) Customer shall pay Kronos within thirty (30) days all fees accrued for the Services prior to the date of termination, provided that if Customer terminates Kronos for material breach of the Agreement, Kronos shall be responsible to refund to Customer unused pre-paid service fees, if any;
- (b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;
- (c) Within fifteen (15) days of termination Customer will retrieve Customer's historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Kronos shall have no further obligation to store and/or make available Customer's historical data and may delete same. If Customer requires additional data conversion services from Kronos, these services may be contracted from Kronos at Kronos' then published rates.
- (d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, upon prior written approval of Kronos, provide Kronos with an officer's certification of the destruction thereof; and
- (e) all provisions in the Agreement, which by their nature are intended to survive termination, shall so survive.

#### 2. FEES AND PAYMENT

2.1 In consideration of the delivery of the Services, Customer shall pay Kronos the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form. All fees payable for the Services shall be sent to the address specified on the Kronos invoice. Unless otherwise indicated on an Order Form, payment terms for all items except the Setup Fees shall be net upon receipt of invoice. Except as expressly set forth in this Section E, all amounts paid to Kronos are non-refundable.

2.2 The Setup Fees shall be invoiced upon execution of the Order and shall be due net 30 days following date of invoice. Customer acknowledges that setup fees may be charged to Customer by third parties for Add-on Features. Monthly Service fees shall be based on monthly periods that begin on the Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as described in Section 8 below. Monthly Service Fees for Services added on or before the 15<sup>th</sup> day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15<sup>th</sup> day of a given month will begin to accrue as of the 1<sup>st</sup> day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Kronos will monitor Customer's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an "Active" status during the period.

2.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Section 1.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") as identified on the Order Form. The Minimum Monthly Fees shall be calculated by Kronos based on Customer's anticipated monthly Usage of the Services plus Equipment rental fees, if any. In the event that Customer does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees up to and including the last day of the month in which the effective date of termination occurs.

2.4 If any amount owing under this or any other agreement for Services is 30 or more days overdue, Kronos may, without limiting its other rights and remedies, accelerate unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Services until such amounts are paid in full. Kronos will provide at least 7 days' prior notice that Customer's account is overdue before suspending Services.

2.5 Deleted Intentionally.

### 3. LICENSE TO USE

3.1 Subject to the terms and conditions of this Section E, Kronos hereby grants Customer during the Term a limited, revocable, non-exclusive, non-transferable, non-assignable license to use for internal business purposes only: a) the Kronos application(s) and related services, including applicable Services description documentation and training materials (the "Documentation"); and, b) any embedded third party software, libraries, or other components, which collectively comprise the Services. The Services contain proprietary trade secret technology of Kronos. Unauthorized use and/or copying of such Services are prohibited by law, including United States and foreign copyright law. Customer may use the software included in the Services in object code form only, and shall not reverse compile, disassemble or otherwise convert such software into uncompiled or unassembled code. Customer acknowledges and agrees that the license to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not 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 third party suppliers ("Suppliers"), is granted hereunder.

3.2 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with this Section E of this Attachment; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

3.3 Customer agrees and acknowledges that 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 licenses granted herein, Customer shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights therein. 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.

3.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Customer at no charge as they are released generally to its customers. Customer agrees to receive those updates automatically as part of the Services. Kronos also may offer new products and/or services to Customer at an additional charge. Customer shall have the option of purchasing such new products and/or services under a separate Order Form.

3.5 Kronos reserves the right to change or discontinue the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies. Customer's continued use of the Services after Kronos posts or otherwise notifies Customer of any changes indicates Customer's agreement to those changes.

### 4. ACCEPTABLE USE

4.1 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 Section E.

4.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose Customer's data and other content ("Customer Content") in connection with the Services. Customer represents and warrants to Kronos that the Customer Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or, (c) be hateful or threatening.

4.3 Customer will not (a) use, or allow the use of, the Services or Customer Content in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

### 5. CONNECTIVITY AND ACCESS

5.1 Customer acknowledges that it shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); (b) provide Kronos and its 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 this Section E of this Agreement. Kronos is hereby (i) granted access to such Customer data to perform its obligations under this Section E of this Agreement and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage; (iii) make all necessary arrangements as may be required to provide such physical access to Customer's computer and network environment if necessary for Kronos to perform its obligations under this Section E of this Attachment.

5.2 Customer shall be fully responsible for all access requirements imposed by law, rule, regulation or contract in order for Kronos to deliver the Services pursuant to the terms of this Section E of this Agreement. Customer shall provide 30 calendar days advance written notice to Kronos of any change, modification, or reconfiguration of components or elements of the Customer's computer and network environment which may, in any manner, affect Customer's access to the Services.

### 6. SUPPORT

- a) Implementation. Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Kronos and Customer's implementation responsibilities are described more specifically in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/workforce-ready/implementation-guidelines.aspx>. In the event of inconsistencies between the Services Implementation Guideline and this Agreement, the Agreement shall prevail.

- b) Depot Exchange Services for Equipment. As needed, Kronos will send a replacement for Equipment rented (in accordance with Section 8 below) on an advance exchange basis by next-business-day delivery, when available. When Customer receives replacement Equipment, Customer shall return the defective unit to Kronos for repair. Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.
- c) Standard Support. Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos Customer Portal.
- d) Educational Materials and Content. Customer will have access to certain educational materials and content (the "Educational Content") within the Services. Customer recognizes and agrees that the Educational Content is copyrighted by Kronos. Customer is permitted to make copies of the Educational Content provided in "pdf form solely for Customer's internal training purposes and may not disclose such Educational Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the Educational 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. CUSTOMER CONTENT

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer, including but not limited to information, data (such as payroll data, vacation time, and hours worked), logos, text, multimedia images (e.g. graphics, audio and video files), compilations or any other content shared or processed through the Services. Kronos acknowledges that all such Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other Customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers. In addition, Kronos may, but shall have no obligation to, monitor Customer content from time to time to ensure compliance with this Section E and applicable law.

## 8. EQUIPMENT RENTAL

If Customer purchases or rents time clocks or other equipment from Kronos, a description of such Equipment (model and quantity) and the applicable pricing shall be listed on the Order Form (the "Equipment"). Delivery terms for the Equipment are FOB shipping point, prepaid and add. Customer shall bear all risk of loss or damage while the Equipment is in transit to Customer.

### 8.1 The following additional terms apply only if Customer rents Equipment 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.
- b) Insurance. Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from its obligations under this Section E.
- c) Location/Replacement. Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) Ownership. All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding their 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 6 above. The cost of such support service shall be included in the Monthly Services Fees.

**Return Of Equipment.** Upon termination of the Agreement or the applicable Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. 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, Kronos shall invoice Customer for the then list price of the Equipment. Upon termination of the Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. 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, Kronos shall invoice Customer for the then list price of the Equipment.

### 8.2 The following additional terms apply only if Customer purchases Equipment from Kronos:

- a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon delivery to the carrier (FOB – Shipping Point, Prepaid and Add). The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery.
- b) Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

## 9. SERVICE LEVEL AGREEMENT

Kronos shall: (a) provide basic support for the services at no additional charge, (b) use commercially reasonable efforts to make the services available 24 hours a day, 7 days a week, except for: (i) planned downtime (when it shall give at least 8 hours notice via the services and shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, eastern time), or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, including without limitation, acts of god, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Kronos employees), internet service provider failures or delays, or denial of service attacks, and (iii) provide services in accordance with applicable laws and government regulations.

## 10. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

**10.1** Kronos represents and warrants that the Services, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with the Documentation during the Term.

**10.2** Kronos' obligation and Customer's remedy for any breach of the above 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 deficiencies in the



Services, after using its commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining term of the Order Form for cause in accordance with Section 1 above as Customer's 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 and/or verify the same.

10.3 Kronos warrants that all equipment shall be free from defects in materials and workmanship during the warranty period as described in article 8 above. In the event of a breach of this warranty, customer's 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 published specifications 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 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 WARRANTED IN THIS SECTION 10, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM. KRONOS PROVIDES NO WARRANTY FOR SUPPLIER HARDWARE OR SOFTWARE EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED ON AN ORDER FORM.

## 11.0 DATA SECURITY

11.1 As part of the Services, Kronos shall provide administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data. 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 this Section E.

11.2 As between Customer and Kronos, all personally identifiable data contained in any applications or systems supplied by Kronos, or to which Kronos has access to under this Section E ("Personally Identifiable Data") is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of its knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data by Kronos and its 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 its duties and responsibilities under this Section E or as required by law.

11.3 Prior to initiation of the Services and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its 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.

11.4 Upon the cessation of the Services, Customer shall be afforded the opportunity to retrieve all Personally Identifiable Data in accordance with Section 1.5 above.

## 12. RESPONSIBILITY OF CUSTOMER

12.1 If notified in writing of any action (and all prior related claims) brought against Customer based on a claim that the Services infringe or misappropriate any United States or Canadian copyright or patent, Kronos will indemnify and hold Customer harmless and defend such action at its sole cost and expense and pay all costs including reasonable attorney fees and damages resulting from such claim. Kronos will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Customer will cooperate fully at Kronos' expense with Kronos in the defense, settlement or compromise of any such action. In the event that a final Injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of a United States or Canadian 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 they become non-infringing but remains 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 set-up fees and Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

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

12.3 Customer shall be responsible for all cost and expense and pay all costs, including reasonable attorney's fees and damages of Kronos or its



Suppliers, if the action is arising from or relating to: (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 and/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. LIMITATION OF LIABILITY**

**13.1 EXCEPT AS SPECIFICALLY PROVIDED WITHIN THIS AGREEMENT, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.**

**13.2 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 12 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS OR ITS SUPPLIERS TO CUSTOMER AND/OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES.**

**13.3 IN NO EVENT SHALL KRONOS OR ITS SUPPLIERS, THEIR AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THIS 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.**

**13.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SOFTWARE OR SYSTEMS, OR MACHINE ERROR**

**AMENDMENT ONE TO  
CONTRACT #14-JLR-003**

THIS Amendment One to the Contract #14-JLR-003, is made this 4th day of June, 2014, by and between Harford County Public Schools, hereafter called "Owner" and Kronos Incorporated, a corporation at 297 Billerica Road, in the City of Chelmsford and State of Massachusetts, hereinafter called "Contractor".

WITNESSETH: That the parties wishes to update the Contract #14-JLR-003 to adjust certain terms and also the pricing for certain products and services.

1. Contract Terms and Conditions: The parties hereby agree to amend the Contractor terms and conditions as set forth in Exhibit A of this Amendment.
2. Product and Pricing: The parties hereby agree to amend the contract to include the newly developed product, Timelink, with pricing consistent with the structure of the original solicitation offering.
3. All other terms and conditions shall remain the same.

This is an indefinite quantity contract with no specific assigned dollar value.

IN WITNESS WHEREOF, the parties to these presents have executed this in the year and day first above mentioned.

Harford County Public Schools

Jeffrey LaPorta  
Jeffrey LaPorta, CPPB, Supervisor of Purchasing

June 5, 2014

Date

Kronos Incorporated  
Company Name

John O'Brien  
Company Representative Printed Name

Sr. V.P., Global Sales  
Company Representative Title

[Signature]  
Company Representative Signature

June 5, 2014  
Date

EXHIBIT A TO AMENDMENT 1 OF CONTRACT #14-JLR-003

AMENDMENT TO THE  
KRONOS TERMS AND CONDITIONS FOR PARTICIPATING PUBLIC AGENCIES ADMINISTERED BY US COMMUNITIES (103113V2)

**KRONOS TERMS**

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

- SECTION A: GENERAL TERMS AND CONDITIONS. This Section apply for all transactions.
- SECTION B: TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND PROFESSIONAL SERVICES. This Section apply for all transactions except Workforce Ready and the Workforce Central SaaS offering ( not including the professional and educational services governed by this Section).
- SECTION C: CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and identified as CLOUD 2.
- SECTION C-1: APPLICATION HOSTING TERMS AND CONDITIONS . This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B and identified as CLOUD.
- SECTION D: KRONOS WORKFORCE CENTRAL SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Central transactions in a SaaS environment (except for the related professional and educational services see Section B)
- SECTION E: KRONOS WORKFORCE READY SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Ready transactions.

## SECTION A: GENERAL TERMS AND CONDITIONS

### 1. APPLICATION OF THESE TERMS

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

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

- (i) Section B shall apply to the Software licenses and purchased Equipment, support services, and professional and educational services,
- (ii) Section C shall apply to the Hosting Services purchased in connection with certain Software licensed under Section B,
- (iii) Section D shall apply to the Workforce Central SaaS Orders; and
- (iv) Section E shall apply to the Workforce Ready SaaS Order.

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

### 2. APPLICABLE LAWS

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

### 3. EXPORT

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

### 4. CONFIDENTIAL INFORMATION

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

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

### 5. TAXES

If Customer presents to Kronos a validly issued tax-exempt certificate, or other sufficient evidence of tax exemption, Customer shall not be liable for those taxes for which Customer is exempt. Otherwise, Customer agrees to pay all other applicable duties and customs fees relating to this Agreement, as well as all taxes levied or based on the products, services or other charges hereunder, including federal, state and local sales and excise taxes, and any taxes or amount in lieu thereof paid or payable by Kronos, exclusive of taxes based on Kronos net income or business privilege.

### 6. TRAVEL EXPENSES

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

### 7. GENERAL

- (a) The invalidity or illegality of any provision of this Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.
- (b) Customer shall not assign this Agreement or the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.
- (c) Neither Party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement (other than a

failure to comply with payment obligations) where and to the extent that such failure or delay results from an unforeseeable event beyond a party's reasonable control, including but not limited to, acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefor, or lack of or delay in transportation (each a "Force Majeure Event").

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

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

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

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

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

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

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

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

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

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

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

**1. PAYMENT AND DELIVERY**

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

**2. GENERAL LICENSE TERMS**

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

**3. FEE BASED LIMITATIONS**

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

**4. OBJECT CODE ONLY**

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

**5. PERMITTED COPIES**

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

**6. UPDATES**

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

**7. ACCEPTANCE**

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

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

**8. LIMITED WARRANTY**

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

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

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

## 9. PROFESSIONAL AND EDUCATIONAL SERVICES

### (a) ENGAGEMENTS

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

### (b) WARRANTY

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

### (c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES

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

## 10. SOFTWARE SUPPORT SERVICES

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

### 10.1 SUPPORT OPTIONS

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

### 10.2 TERM OF SOFTWARE SUPPORT

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

### 10.3 GOLD SERVICE OFFERINGS

Customer shall be entitled to receive:

- (i) Updates for the Software (not including any Software for which Kronos charges a separate license fee), provided that Customer's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Kronos. If Customer requests Kronos to install such Updates or to provide retraining, Customer agrees to pay Kronos for such installation or retraining at Kronos' pricing set forth in this Agreement.
- (ii) Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.
- (iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Customer forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at <http://www.kronos.com/services/support-services.aspx>.
- (iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.
- (v) Access to specialized content as and when made available by Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

#### **10.4 PLATINUM AND PLUS SERVICE OFFERINGS:**

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

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

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

#### **10.5 PAYMENT**

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

#### **10.6 ADDITION OF SOFTWARE**

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

#### **10.7 RESPONSIBILITIES OF CUSTOMER**

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

#### **10.8 DEFAULT**

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

#### **10.9 WARRANTY**

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

### **11. EQUIPMENT SUPPORT SERVICES**

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

#### **11.1 TERM**

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

#### **11.2 PAYMENT**

Customer agrees to pay the Support Charges for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), will be subject to this Agreement. Customer agrees that if Customer purchases, during the term of this Agreement, any Products of the same type as those specified on an Order Form, such additional Products shall be subject to this Agreement. Customer agrees to pay a prorated fee for such additional Products and agrees to pay the full annual fee for such additional Products, upon the renewal date. Kronos will invoice Customer for the annual Support Charges each year in advance of the Renewal Date. Customer will pay Kronos within thirty (30) days of receipt of invoice.

#### **11.3 DEPOT SUPPORT SERVICE DESCRIPTION**

Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and can be found at <https://customer.kronos.com/contact/contact-phone.aspx> and are subject to change. Return and repair



procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies. Service packs for the Equipment (as described in subsection (b) below) are included in both Depot Exchange and Depot Repair Support Services.

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

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

Kronos warrants that all repairs performed under the Agreement shall be performed in a professional and competent manner. In the event of a breach of this warranty, the exclusive remedy of Customer and sole liability of Kronos shall be replacement of the repaired Equipment.

#### 11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION

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

(i) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and

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

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

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

#### 11.5 RESPONSIBILITIES OF CUSTOMER

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

(a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;

(b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;

(c) Ensure that the Product(s) are returned to Kronos properly packaged; and

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

#### 11.6 SUPPORT EXCLUSIONS

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

(a) Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;

(b) Customer's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;

(c) Customer's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;

(d) Customer's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;

(e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or

(f) Customer's repair, attempted repair or modification of the Products.

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

#### 11.7 WARRANTY

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

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

#### 11.8 LIMITATION OF REMEDIES

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

## 12. KRONOS SUPPORT SERVICE POLICIES

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

## 13. FIRMWARE

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

## 14. TRAINING POINTS

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

## 15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

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

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

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

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

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

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

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

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

## 16. INDEMNIFICATION

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

## 17. LIMITATION OF LIABILITY

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

EXCEPT FOR i) KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 16 ABOVE; ii) CUSTOMER'S CLAIMS FOR TANGIBLE PROPERTY DAMAGE OR PERSONAL INJURY TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY'S EMPLOYEES, IN NO EVENT SHALL KRONOS' OR ITS PARENTS', SUBSIDIARIES', AFFILIATES', OR THIRD PARTY LICENSOR'S LIABILITY TO A CUSTOMER, HOWSOEVER CAUSED, EXCEED THE VALUE OF THE ORDER WHICH GIVES RISE TO

THE CLAIM, AND IN NO EVENT WILL KRONOS OR ITS PARENTS, SUBSIDIARIES AFFILIATES OR THIRD PARTY LICENSORS BE LIABLE FOR LOST PROFITS, LOST DATA OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR CUSTOMER'S SPECIFIC USE OF, OR INABILITY TO SO USE, ANY EQUIPMENT, SOFTWARE OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

**18. TERMINATION OF ORDER FORM OR SOW**

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

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

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

These terms and conditions apply to the cloud services which are identified in the Pricing as the Cloud 2 in the Pricelist Name.

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

**1. DEFINITIONS**

"Application(s)" means those Kronos software applications set forth in the Cloud Hosting SSS which are made accessible for Customer to use under the terms of this Addendum.

"Application Hosting Program" or "Program" means (I) accessibility to the Applications, by means of access to the password protected customer area of the Kronos hosting environment, and (II) all Hosting Related Services.

"Content" means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos.

"Hosting Related Services" means certain services set forth in a Services Scope Statement (SSS) containing hosted related services (the "Cloud Hosting SSS"), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

"Initial Term" means the initial term of the Program as set forth in the applicable Cloud Hosting SSS.

"Internal Use" means the use of the Program: (i) by Customer's personnel solely for Customer's internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer's employees assigned to, or potential employees of, Customer's authorized business unit(s), solely for the internal business purposes of such business unit(s).

"Monthly Service Fee(s)" means the monthly fees described in the Cloud Hosting SSS and set forth on the applicable Order Form..

"Order Form" means the order request form supplied by Kronos and signed by the Parties that lists the fees for the elements of Customer's particular Program.

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

"Production Environment" means a permanent environment established for the daily use and maintenance of the Applications in a live environment throughout the term of a Program.

"Service Description" means the detailed service description (including any supplementary service terms) specified in the Cloud Hosting SSS which sets forth the specific Program to be provided to the Customer.

"SLA(s)" means a service level agreement offered by Kronos for the Production Environment and attached to this Section C as Exhibit A which contains key service level standards and commitments that apply to the Program as detailed in the Service Description.

"SLA Credit" means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

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

"Temporary Environment" means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Hosting SSS as a Temporary Environment.

**2. CLOUD HOSTING SERVICES SCOPE STATEMENT**

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, and other fees, if any, applicable to the Program are described in the applicable Cloud Hosting SSS and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer's existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Hosting SSS indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

**3. AUTHORIZED USE**

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section C.

#### **4. MAINTENANCE ACCESS**

If Kronos, its Suppliers, or the local access provider, as applicable, requires access to Customer sites in order to maintain or repair the Program, Customer shall cooperate in a timely manner and reasonably provide such access and assistance as necessary. As part of Kronos' support services, Kronos will make updates to the Applications available to Customer at no charge as they are released generally to Kronos' customers. Customer agrees to receive those updates automatically as part of the Program. Customer may be required to purchase additional Hosting Related Services to address Infrastructure requirements as released by Kronos for a new version of a particular Application.

#### **5. CUSTOMER REPRESENTATIONS AND WARRANTIES; CUSTOMER OBLIGATIONS**

5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.

5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Hosting SSS and Order Form.

5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

#### **6. CONNECTIVITY AND ACCESS**

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

#### **7. FEES AND PAYMENT TERMS**

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the date the Order Form and SSS are signed by the parties, and shall be invoiced annually in advance.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the Invoice. Payment terms shall be net 30 days following receipt of invoice.

7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be paid by Kronos in the month following the month in which the SLA Credits were earned.

#### **8. SERVICE LEVEL AGREEMENT**

CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS ADDENDUM OR THE LICENSE AGREEMENT. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.

#### **9. LIMITATION OF LIABILITY**

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

#### **10. DATA SECURITY**

10.1 As part of the Program, 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/smb-solutions/workforce-central-saas/security-description.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.

10.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only

for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under this Agreement or as required by law.

10.3 Prior to initiation of the Program 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 Program. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' 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.

#### 11. TERM AND TERMINATION

11.1 At the expiration of the Initial Term, the applicable Program shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C if such breach is not cured within ten (10) days of the date of Kronos' written notice. No Program interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

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

11.3 Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

11.4 In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the applicable Monthly Services Fees.

## EXHIBIT A

### SERVICE LEVEL AGREEMENT (SLA)

**Service Level Agreement:** The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), 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 Services. 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) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined 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 product documentation for such Application.

**"Maintenance Period"** means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday      04:00 am – 06:00 am (U.S. eastern time)  
Saturday and Sunday      12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

**"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.

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

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

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

**SECTION C.1:  
APPLICATION HOSTING TERMS AND CONDITIONS .**

**This Section applies only for transactions that involve Kronos hosting for Software licensed under Section B in relation with hosting pricing referred to as CLOUD  
This attachment does not apply to CLOUD 2 Items.**

**APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS**

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement using the pricing set up on November 21, 2013.

**DEFINITIONS**

**"Application Hosting Program" or "Program"** means (i) accessibility to the commercially available object code version of the Kronos hosted applications, as set forth in the Cloud Services SOW, by means of access to the password protected customer area of the Kronos hosting environment, and (ii) all Hosting Related Services.

**"Content"** means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Customer content shared or processed on equipment under the control of Kronos or a Supplier.

**"Hosting Related Services"** means certain services set forth in a statement of work containing hosted related services (the "Cloud Services SOW"), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or Cloud Services and maintenance services related to hosting.

**"Initial Term"** means the initial term for which Kronos shall provide the Program to Customer and as set forth in the applicable Cloud Services SOW executed by Customer.

**"Internal Use"** means the use of the Program: (i) by Customer's personnel solely for Customer's internal business purposes and (ii) by any authorized employee, agent or contractor of Customer to process information relating to Customer's employees assigned to, or potential employees of, Customer's authorized business unit(s), solely for the internal business purposes of such business unit(s).

**"Monthly Service Fee(s)"** means the monthly fees described in the Cloud Services SOW and set forth on the applicable Order Form, which shall include all Hosting Related Services fees.

**"Order Form"** means the order request form supplied by Kronos and signed by the Parties that lists the Startup Fees and Monthly Service Fees for the elements of Customer's particular Program.

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

**"Production Environment"** means a permanent environment established for the daily use and maintenance of the Application in a live environment throughout the term of a Program.

**"Services Commencement Date"** shall, except as otherwise provided in writing in a Cloud Services SOW or Order Form signed by the parties, mean the earlier of (a) the date the Software is transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date.

**"Service Description"** means the detailed service description (including any supplementary service terms) specified in the Cloud Services SOW which sets forth the specific Program to be provided to the Customer.

**"SLA(s)"** means a service level agreement offered by Kronos for the Production Environment and attached to this Section C.1 as Exhibit A.1 which contains key service maintenance standards and commitments that apply to the Program as detailed in the Service Description.

**"SLA Credit"** means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.

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

**"Temporary Environment"** means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Cloud Services SOW as a Temporary Environment.

**"Startup Fees"** means the one time, customer-specific startup fee as indicated on the Order Form that will be charged to Customer to enable access to the Program.

**Cloud Services STATEMENT OF WORK**

The description of the particular Program ordered by the Customer, the Program term, the Monthly Service Fee rates, the Startup Fees and other fees, if any, applicable to the Program are described in the applicable Cloud Services SOW and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Customer's existing Program, or the SLA, during the Initial Term. Kronos may change such Monthly Service Fee



rates or the associated SLA for a renewal term of the particular Program by notifying Customer at least sixty (60) days prior to the expiration of the then current term. SLAs are only available in a Production Environment. Unless the Cloud Services SOW indicates that the Program is to be implemented in a Temporary Environment, the Program will be deemed to be implemented in a Production Environment.

#### **Authorized Use**

Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this section C.1.

#### **MAINTENANCE ACCESS**

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

#### **Customer representations and warranties; Customer obligations**

5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer's Content in the Program.

5.2 Customer represents and warrants to Kronos that Customer's Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Cloud Services SOW. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Services SOW and Order Form.

5.4 Customer shall not, and shall not permit any person or entity under Customer's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

#### **6. INTERNET ACCESS**

6.1 If Customer uses open Internet connectivity or Customer-supplied VPN Internet connections to access the Program, Customer acknowledges that the performance and throughput of the Internet connection cannot be guaranteed by Kronos, and variable connection performance may result in application response variations.

6.2 Customer hereby acknowledges that the Internet is not owned, operated, managed by, or in any way affiliated with Kronos, its Suppliers or any of its affiliates, and that it is a separate network of computers independent of Kronos. Access to the Internet is dependent on numerous factors, technologies and systems, many of which are beyond Kronos' authority and control. Customer acknowledges that Kronos cannot guarantee that the Internet access services chosen by Customer will meet the level of up-time or the level of response time that Customer may need. Customer agrees that its use of the Internet access services and the Internet is solely at its own risk, except as specifically provided in this Section C.1, and is subject to all applicable local, state, national and international laws and regulations.

#### **7. FEES AND PAYMENT TERMS**

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the Services Commencement Date, and shall be invoiced monthly in advance. In addition, Customer shall be billed the Startup Fees and any additional Cloud Hosting startup fees set forth in the applicable Order Form. Customer acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be net 30 days following receipt of invoice. All overdue payments shall bear interest at the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed under applicable law. Customer is responsible for all federal, state or local taxes, duties and customs fees relating to the Program, excluding taxes based on Kronos' income or business privilege.

7.3 SLA Credits, if any, which are due and owing to a Customer under an SLA for a particular month of the Program shall be included in the Monthly Service Fee invoice issued by Kronos for the month following the month in which the SLA Credits were earned.

#### **8. SERVICE LEVEL AGREEMENT**

**CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OR DEFICIENCY OF SERVICE(S) OR FAILURE BY KRONOS TO MEET THE TERMS OF AN APPLICABLE SLA, SHALL BE THE REMEDIES PROVIDED IN THE SLA; PROVIDED THAT ANY REMEDIES OR CREDITS CONTAINED IN THE SLA ARE NOT AVAILABLE FOR OUTAGES, INTERRUPTIONS OR DEFICIENCIES OCCURRING DURING ANY PERIOD IN WHICH CUSTOMER IS IN BREACH OF THIS SECTION C.1 OR SECTION B. KRONOS DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS OR DEFICIENCIES OF SERVICES.**

#### **9. LIMITATION OF LIABILITY**

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE LICENSE AGREEMENT, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR

APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

#### **10. DATA SECURITY**

**10.1** As part of the Program, Kronos shall provide those Kronos security-related services described in the Cloud Services SOW. Customer acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular security-related service as just one tool to be used as part of an 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.

**10.2** All Personally Identifiable Data contained in any Software, Equipment or systems supplied by Kronos, or to which Kronos has access to under this Section C.1, as between Kronos and Customer, is Customer's Confidential Information and will remain the property of Customer. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data only for the purposes described herein and to the extent such use or processing is necessary for Kronos to carry out its duties and responsibilities under this Section C.1 or as required by law.

**10.3** Prior to initiation of the Program 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 and which could be imposed on Kronos as a result of provision of the Program. Customer will ensure that: (a) the transfer and storage of any Personally Identifiable Data to Kronos and managed by Kronos' or Supplier's data center is legitimate under applicable data protection laws and regulations; and (b) Customer will obtain consent from individuals for such transfer and storage to the extent required under applicable laws and regulations.

**10.4** At no cost to Customer, Kronos shall upon (i) request by Customer at any time and (ii) the cessation of the Program, promptly return to Customer, in the format and on the media in use as of the date of the request, all Personally Identifiable Data.

#### **11. TERM AND TERMINATION**

**11.1** At the expiration of the Initial Term, the applicable Programs shall automatically renew for successive one year periods unless either party provides notice of its intent not to renew at least sixty (60) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C.1. No Program interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

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

**12.3** Customer may terminate the Program for convenience on no less than ninety (90) days prior written notice to Kronos.

**12.4** In the event of termination of the Program by Customer for convenience or by Kronos for cause during the Initial Term, Customer will pay to Kronos any out of pocket expenses incurred by Kronos in terminating the Program plus an early termination fee based on the following calculation: one (1) month of the then-current Monthly Services Fees for every twelve (12) month period (or portion thereof) remaining in the Initial Term. By way of example only, if Customer terminates the Program for convenience with fifteen (15) months remaining in the Initial Term, Customer will be responsible to pay Kronos two (2) months of the then-current Monthly Services Fees.

**EXHIBIT A.1  
TO SECTION C.1  
SERVICE LEVEL AGREEMENT (SLA)**

**Service Level Types:** SLAs are only applicable to Production Environments. The Program, in a Production Environment, as described in the Service Description is provided with the following service level:

**99.50% Application Availability**

**Service Levels/Credit Calculation:** An Outage will be deemed to commence when Customer opens a case with Kronos Global Support, or Kronos Cloud Services receives an application availability alert. The Outage will be deemed to end when Kronos has restored availability of the Program. Failure to meet the above service levels will entitle Customer to credits as follows.

<b>99.50% Application Availability SLA – Production Environment</b>	
<b>Uptime percentage (as measured in a calendar month)</b>	<b>Affected Service Credit</b>
The amount of the Credit will be determined as follows:	
<99.50% to 98.75%	15%
<98.75% to 98.25%	20%
<98.25% to 97.75%	35%
<97.75 to 96.75%	50%
<96.75	75%

**Application Availability SLA% = ((MM-TM)\*100) / (MM)**

**Definitions**

"Affected Service" means the monthly fees paid for the hosting of the Program.

"Excluded Event" means any event that adversely impacts the Program that 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 or Supplier; (c) Force Majeure events; (d) scheduled or emergency maintenance, alteration or implementation; (e) any suspension of the Program in accordance with the terms of this Section or License Agreement; (f) the unavailability of required Customer personnel, including as a result of failure to provide Supplier with accurate, current contact information; (g) using the Application in a manner inconsistent with the product documentation; or (h) any other exclusionary circumstance specified in the applicable Cloud Services SOW.

"Monthly Minutes (MM)" means total minutes in which service was scheduled to be available.

"Outage" means the accumulated time during which Customer is unable to establish an active communications connection, measured from beginning to end, between Customer and the Program for reasons other than (a) failures caused by Customer Data; or (b) any Excluded Events.

"Scheduled Maintenance (SM)" means scheduled maintenance periods established by Kronos to provide ample time to maintain and update the applications, when necessary. During these maintenance periods, the applications are available to Kronos to perform periodic services, which include vital software updates. Systems will generally continue to be available to Customer; however, some changes will require planned downtime. Kronos will provide notice for planned downtime via an email notice to our primary Customer contact at least one day in advance of such shutdown/restart so planning can be facilitated by Customer.

When application maintenance is required, current Scheduled Maintenance periods for the applications are:

Monday through Friday	4am – 6am
Saturday and Sunday	12am - 8am

- All times listed are U.S. Eastern Time.
- Kronos' utilization of the above maintenance windows shall not trigger SLA Credits to Customer.

"Total Minutes Not Available" (TM) means the total number of minutes during the calendar month that the Program is unavailable outside of scheduled maintenance windows.

**Limitations:** Kronos will apply any credits to the Customer account. Credits will not be provided if: (a) Customer is in breach or default under this Section or the Program at the time the Outage occurred and such breach is the cause of the Outage; or (b) it results from an Excluded Event.

In no event will the credits accrued in any calendar month exceed, in the aggregate across all service levels and events, one hundred (100%) of the invoice amount for the Affected Service.

The Service Level Agreements in this Exhibit, and the related credits listed, apply on a per Program basis. For the avoidance of doubt, Outages, delays, failures, etc. in one Program may not be added to Outages, delays, failures, etc. in any other Program for purposes of calculating SLA credits.

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

Customer and Kronos agree that the terms and conditions set forth in this Section D shall apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications and related services and materials (including applicable documentation) and Equipment (if any) specified on an Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

**1. DEFINITIONS**

**"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 Section D.

**"Cloud Services"** means those services related to Customer's hosting environment such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto. Unless otherwise set forth in a Statement of Work, Cloud Services are described as set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidelines.aspx>

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

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

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

**"Implementation Services"** means those services provided by Kronos to set up the hosting environment and configure the Services, including educational services and training. Unless otherwise set forth in a Statement of Work, Kronos' and Customer's implementation responsibilities are described in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/smb-solutions/workforce-central-saas/implementation-guidelines.aspx>. Implementation Services may be provided as forth in Section B.

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

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

**"Minimum Contract Value"** means the total of all Monthly Service Fees to be invoiced during the Initial Term.

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

**"Services"** means (i) accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, (ii) the Equipment purchased or rented hereunder, (iii) the Implementation Services and Cloud Services, and (iv) such other services, items and offerings set forth on an Order Form.

**"Start Date"** means the date billing commences for the Services (excluding the Implementation Services) as indicated on the applicable Order Form. For any Services ordered by Customer after the date of this Section D which are incremental to Customer's then-existing Services, the Start Date shall be the date the applicable Order Form is executed by Kronos and Customer.

**"Statement of Work", "SOW", "Services Scope Statement" and "SSS"** are interchangeable terms referring to a written description of the Implementation Services and Cloud Services as mutually agreed upon by Kronos and Customer. An SOW supersedes any implementation guidelines or descriptions on a web page referenced in this Section D.

**"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 Program.

**"Term"** means the Initial Term and any monthly renewals thereafter, as further set forth in Section 2.1.

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

**2. TERM**

**2.1** The Services shall commence on the Start Date, and shall continue for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term, the Term shall automatically renew on a month-to-month basis until terminated in accordance with the provisions hereof. 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.

**2.2** At any time after the Initial Term: (i) Customer may terminate the Services for convenience upon thirty (30) days prior written notice, and (ii) Kronos may terminate the Services for convenience upon ninety (90) days prior written notice.

**2.3** Either party may suspend or terminate the Services upon a material breach of this Section D by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services immediately upon notice in the event of any Customer breach of Sections 3 (Right to Use), 4 (Acceptable Use), or 14 (Confidential Information).

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 Services immediately upon written notice to the other party.

2.5 If the Services are terminated for any reason:

- (a) Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued for the Services prior to the date of termination, provided that if Customer terminates for material breach of this Section D by Kronos, Kronos shall be responsible to refund to Customer unused pre-paid Implementation Service fees, if any;
- (b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;
- (c) No more than fifteen (15) days after termination or upon Customer's written request at any time during the Term, Kronos will provide to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and may delete any or all Customer Content without liability.
- (d) 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
- (e) all provisions in this Section D, which by their nature are intended to survive termination, shall so survive.

### 3. FEES AND PAYMENT

3.1 In consideration of the delivery of the Services, 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. If Customer and Kronos have signed a Statement of Work for the Implementation Services, Implementation Services such services will be provided and payable in accordance with Section B. All fees payable for the Services shall be sent to the attention of Kronos as specified on the invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Except as expressly set forth in this Section D, all amounts paid to Kronos are non-refundable. Customer acknowledges that fees may be charged to Customer by third parties for add-on features or functionality provided by such third parties.

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

3.3 Deleted intentionally.

3.4 Customer agrees that except if Customer terminates for material breach of this Section D by Kronos, if Customer has not paid the Minimum Contract Value to Kronos at the conclusion of the Initial Term or the earlier termination of the Services, whichever is earlier, Kronos shall bill, and Customer shall pay within thirty (30) days of the date of such invoice, the difference between the total Monthly Service Fees then paid by Customer and the Minimum Contract Value, less SLA Credits, if any, that have been earned previously by Customer but not yet credited.

### 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 Application(s) and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which are included in the Services, excluding such Third Party software, libraries or other components as are licensed directly from such Third Parties. 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 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.

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

### 5. ACCEPTABLE USE

5.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section D.

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in the Services. Customer represents and warrants to Kronos that the Customer Content does not: (a) infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) be abusive, profane, or offensive to a reasonable person, or, (c) be hateful or threatening.

5.3 Customer will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

#### 6. CONNECTIVITY AND ACCESS

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

#### 7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Kronos will provide the Implementation Services to Customer. Implementation Services described in an SSS are provided on a time and materials basis, billed monthly as delivered. Implementation Services described in the Services Implementation Guideline are provided on a fixed fee basis. If Customer requests additional implementation Services beyond those described in the SSS, Kronos will create a change order for Customer's review and approval and any additional implementation Services to be provided by Kronos in accordance with Section B. Kronos' configuration of the Applications will be based on information and work flows that Kronos obtains from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met.

7.2 Additional Services. Customer may engage Kronos to provide other services which may be fixed by activity or provided on a time and materials basis as indicated on the applicable Order Form.

7.3 Support. Kronos will provide 24x7 support for the hosting infrastructure, the availability to the hosting 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 such updates automatically as part of the Services.

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

(a) 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.

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

(c) Customer shall be entitled to receive 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 Kronos.

(d) Kronos warrants that all service packs and firmware updates provided under this Section D shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s).

(e) 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, in all circumstances, Customer agrees to:

(i) Maintain the Equipment in an environment conforming to the Documentation 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.

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

7.6 Training Points. "Training Points" which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions

offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

**7.7 Training Courses.** When Implementation Services are described in the Services Implementation Guideline rather than 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: <http://www.kronos.com/products/smb-solutions/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.

## **8. CUSTOMER CONTENT**

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers and to disclose such aggregated information for its customers generally. In addition, Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with this Section D 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** 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 this Section D.
- b) **Insurance.** Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from Customer's obligations under this Section D.
- c) **Location/Replacement.** Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) **Ownership.** All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
- e) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in Section 7.
- f) **Return of Equipment.** Upon termination of the Services, Customer agrees that Customer shall return the Equipment to Kronos within thirty (30) days at Customer's expense. 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** The following terms apply only to Equipment Customer purchases from Kronos:

- a) **Ownership and Warranty Period.** Title to the Equipment shall pass to Customer upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).
- b) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described herein if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

## **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 and when used as authorized herein, will perform substantially in accordance with such documentation during the Term.

**11.2** Kronos' sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Services for cause in accordance with Section 2 above as Customer's sole and exclusive remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

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

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or



- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF 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/smb-solutions/workforce-central-saas/security-description.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 this Section D.

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

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

## 13. INDEMNIFICATION

13.1 Kronos shall defend Customer and its respective directors, officers, and employees (collectively, the "Customer Indemnified Parties"), from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party (each a "Claim") alleging that the permitted uses of the Services infringe or misappropriate any United States or Canadian copyright or patent and will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claim by a court of applicable jurisdiction or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of such copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in this Section D, (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 Services and the rights granted hereunder after provision of a refund to Customer of the Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

13.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with Kronos' documentation for such Service or as authorized by this Section D; (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 this Section D. Notwithstanding the foregoing, with regard to Infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such Infringement claims, provided that Kronos or Kronos' Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor.

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

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

## 14. LIMITATION OF LIABILITY

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

14.2 Except for Kronos' indemnification obligations set forth in section 13 above, the total aggregate liability of Kronos or Kronos' suppliers to



customer and/or any third party in connection with this Section D shall be limited to direct damages proven by customer, such direct damages not to exceed an amount equal to the total net payments received by Kronos for the services in the twelve (12) month period immediately preceding the date in which such claim arises.

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

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

## EXHIBIT A

### SERVICE LEVEL AGREEMENT (SLA)

**Service Level Agreement:** The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), 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 Services. 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) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined 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 product documentation for such Application.

**"Maintenance Period"** means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday 04:00 am – 06:00 am (U.S. eastern time)

Saturday and Sunday 12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Customer and Kronos.

**"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.

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

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

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



## SECTION E

### KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE (SAAS) TERMS AND CONDITIONS

Customer and Kronos agree that the terms and conditions set forth in this Section E shall apply to the Kronos software application programs and related services and materials (including applicable documentation) and equipment (if any) specified on an Order Form for Workforce Ready(collectively, the "Services"). The Services described on an Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website.

#### 1. TERM

1.1 The Services shall be deemed to start on the earlier of: a) ninety (90) days from Kronos' receipt of the relevant Order Form; or, b) the date Customer is authorized to "go live" with the Services for production purposes, (the "Start Date"), and shall continue indefinitely on a month-to-month basis until terminated in accordance with the provisions hereof (the "Term"). Customer acknowledges that execution of separate third party agreements may be required in order for Customer to "go live" with certain add-on features or functionality, including tax filing services ("Add-on Features"), as identified by Kronos on the Order Form.

1.2 Customer may terminate the Services or the Agreement for convenience upon thirty (30) days prior written notice.

1.3 Either party may suspend or terminate the Services or 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. Notwithstanding the foregoing, Kronos may suspend or terminate the Services or the Agreement immediately upon notice in the event of any Customer breach of Sections 3 (License to Use), 4 (Acceptable Use), or Section A.4 (Confidential Information), below.

1.4 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, files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to comply with such request 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.

1.5 If the Agreement is terminated for any reason:

(a) Customer shall pay Kronos within thirty (30) days all fees accrued for the Services prior to the date of termination, provided that if Customer terminates Kronos for material breach of the Agreement, Kronos shall be responsible to refund to Customer unused pre-paid service fees, if any;

(b) Customer's right to access and use the Services shall be revoked and be of no further force or effect;

(c) Within fifteen (15) days of termination Customer will retrieve Customer's historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Kronos shall have no further obligation to store and/or make available Customer's historical data and may delete same. If Customer requires additional data conversion services from Kronos, these services may be contracted from Kronos at Kronos' then published rates.

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

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

#### 2. FEES AND PAYMENT

2.1 In consideration of the delivery of the Services, Customer shall pay Kronos the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form. All fees payable for the Services shall be sent to the address specified on the Kronos invoice. Unless otherwise indicated on an Order Form, payment terms for all items except the Setup Fees shall be net upon receipt of invoice. Except as expressly set forth in this Section E, all amounts paid to Kronos are non-refundable.

2.2 The Setup Fees shall be invoiced upon execution of the Order and shall be due net 30 days following date of invoice. Customer acknowledges that setup fees may be charged to Customer by third parties for Add-on Features. Monthly Service fees shall be based on monthly periods that begin on the Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as described in Section 8 below. Monthly Service Fees for Services added on or before the 15<sup>th</sup> day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15<sup>th</sup> day of a given month will begin to accrue as of the 1<sup>st</sup> day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Kronos will monitor Customer's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an "Active" status during the period.

2.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Section 1.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") as identified on the Order Form. The Minimum Monthly Fees shall be calculated by Kronos based on Customer's anticipated monthly Usage of the Services plus Equipment rental fees, if any. In the event that Customer does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees up to and including the last day of the month in which the effective date of termination occurs.

2.4 If any amount owing under this or any other agreement for Services is 30 or more days overdue, Kronos may, without limiting its other rights and remedies, accelerate unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Services until such amounts are paid in full. Kronos will provide at least 7 days' prior notice that Customer's account is overdue before suspending Services.

2.5 Deleted Intentionally.

### 3. LICENSE TO USE

3.1 Subject to the terms and conditions of this Section E, Kronos hereby grants Customer during the Term a limited, revocable, non-exclusive, non-transferable, non-assignable license to use for internal business purposes only: a) the Kronos application(s) and related services, including applicable Services description documentation and training materials (the "Documentation"); and, b) any embedded third party software, libraries, or other components, which collectively comprise the Services. The Services contain proprietary trade secret technology of Kronos. Unauthorized use and/or copying of such Services are prohibited by law, including United States and foreign copyright law. Customer may use the software included in the Services in object code form only, and shall not reverse compile, disassemble or otherwise convert such software into uncompiled or unassembled code. Customer acknowledges and agrees that the license to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not sublicense 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 third party suppliers ("Suppliers"), is granted hereunder.

3.2 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with this Section E of this Attachment; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

3.3 Customer agrees and acknowledges that 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 licenses granted herein, Customer shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights therein. 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.

3.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Customer at no charge as they are released generally to its customers. Customer agrees to receive those updates automatically as part of the Services. Kronos also may offer new products and/or services to Customer at an additional charge. Customer shall have the option of purchasing such new products and/or services under a separate Order Form.

3.5 Kronos reserves the right to change or discontinue the Services, in whole or in part, including but not limited to, the internet based services, technical support options, and other Services-related policies. Customer's continued use of the Services after Kronos posts or otherwise notifies Customer of any changes indicates Customer's agreement to those changes.

### 4. ACCEPTABLE USE

4.1 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 Section E.

4.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose Customer's data and other content ("Customer Content") in connection with the Services. Customer represents and warrants to Kronos that the Customer Content will not: (a) infringe or violate any third-party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or, (c) be hateful or threatening.

4.3 Customer will not (a) use, or allow the use of, the Services or Customer Content in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (d) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

### 5. CONNECTIVITY AND ACCESS

5.1 Customer acknowledges that it shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); (b) provide Kronos and its 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 this Section E of this Agreement. Kronos is hereby (i) granted access to such Customer data to perform its obligations under this Section E of this Agreement and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage; (iii) make all necessary arrangements as may be required to provide such physical access to Customer's computer and network environment if necessary for Kronos to perform its obligations under this Section E of this Attachment.

5.2 Customer shall be fully responsible for all access requirements imposed by law, rule, regulation or contract in order for Kronos to deliver the Services pursuant to the terms of this Section E of this Agreement. Customer shall provide 30 calendar days advance written notice to Kronos of any change, modification, or reconfiguration of components or elements of the Customer's computer and network environment which may, in any manner, affect Customer's access to the Services.

### 6. SUPPORT

- a) implementation. Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Kronos and Customer's implementation responsibilities are described more specifically in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/workforce-ready/implementation-guidelines.aspx>. In the event of inconsistencies between the Services Implementation Guideline and this Agreement, the Agreement shall prevail.

- b) Depot Exchange Services for Equipment. As needed, Kronos will send a replacement for Equipment rented (in accordance with Section 8 below) on an advance exchange basis by next-business-day delivery, when available. When Customer receives replacement Equipment, Customer shall return the defective unit to Kronos for repair. Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.
- c) Standard Support. Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos Customer Portal.
- d) Educational Materials and Content. Customer will have access to certain educational materials and content (the "Educational Content") within the Services. Customer recognizes and agrees that the Educational Content is copyrighted by Kronos. Customer is permitted to make copies of the Educational Content provided in .pdf form solely for Customer's internal training purposes and may not disclose such Educational Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the Educational 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. CUSTOMER CONTENT

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer, including but not limited to information, data (such as payroll data, vacation time, and hours worked), logos, text, multimedia images (e.g. graphics, audio and video files), compilations or any other content shared or processed through the Services. Kronos acknowledges that all such Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other Customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers. In addition, Kronos may, but shall have no obligation to, monitor Customer content from time to time to ensure compliance with this Section E and applicable law.

## 8. EQUIPMENT RENTAL

If Customer purchases or rents time clocks or other equipment from Kronos, a description of such Equipment (model and quantity) and the applicable pricing shall be listed on the Order Form (the "Equipment"). Delivery terms for the Equipment are FOB shipping point, prepay and add. Customer shall bear all risk of loss or damage while the Equipment is in transit to Customer.

8.1 The following additional terms apply only if Customer rents Equipment 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.
- b) Insurance. Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from its obligations under this Section E.
- c) Location/Replacement. Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall have the right to enter Customer's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- d) Ownership. All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding their 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 6 above. The cost of such support service shall be included in the Monthly Services Fees.

Return Of Equipment. Upon termination of the Agreement or the applicable Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. 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, Kronos shall invoice Customer for the then list price of the Equipment. Return Of Equipment. Upon termination of the Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. 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, Kronos shall invoice Customer for the then list price of the Equipment.

8.2 The following additional terms apply only if Customer purchases Equipment from Kronos:

- a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon delivery to the carrier (FOB – Shipping Point, Prepay and Add). The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery.
- b) Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

## 9. SERVICE LEVEL AGREEMENT

Kronos shall: (a) provide basic support for the services at no additional charge, (b) use commercially reasonable efforts to make the services available 24 hours a day, 7 days a week, except for: (i) planned downtime (when it shall give at least 8 hours notice via the services and shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, eastern time), or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, including without limitation, acts of god, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Kronos employees), internet service provider failures or delays, or denial of service attacks, and (iii) provide services in accordance with applicable laws and government regulations..

## 10. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

10.1 Kronos represents and warrants that the Services, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with the Documentation during the Term.

10.2 Kronos' obligation and Customer's remedy for any breach of the above 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 deficiencies in the

Services, after using its commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining term of the Order Form for cause in accordance with Section 1 above as Customer's 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 and/or verify the same.

10.3 Kronos warrants that all equipment shall be free from defects in materials and workmanship during the warranty period as described in article 8 above. In the event of a breach of this warranty, customer's 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 published specifications 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 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 WARRANTED IN THIS SECTION 10, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM. KRONOS PROVIDES NO WARRANTY FOR SUPPLIER HARDWARE OR SOFTWARE EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED ON AN ORDER FORM.

## 11.0 DATA SECURITY

11.1 As part of the Services, Kronos shall provide administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data. 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 this Section E.

11.2 As between Customer and Kronos, all personally identifiable data contained in any applications or systems supplied by Kronos, or to which Kronos has access to under this Section E ("Personally Identifiable Data") is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of its knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing and/or disclosure of Personally Identifiable Data by Kronos and its 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 its duties and responsibilities under this Section E or as required by law.

11.3 Prior to initiation of the Services and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its 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.

11.4 Upon the cessation of the Services, Customer shall be afforded the opportunity to retrieve all Personally Identifiable Data in accordance with Section 1.5 above.

## 12. RESPONSABILITY OF CUSTOMER

12.1 If notified in writing of any action (and all prior related claims) brought against Customer based on a claim that the Services infringe or misappropriate any United States or Canadian copyright or patent, Kronos will indemnify and hold Customer harmless and defend such action at its sole cost and expense and pay all costs including reasonable attorney fees and damages resulting from such claim. Kronos will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Customer will cooperate fully at Kronos' expense with Kronos in the defense, settlement or compromise of any such action. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of a United States or Canadian 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 they become non-infringing but remains 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 set-up fees and Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

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

12.3 Customer shall be responsible for all cost and expense and pay all costs, including reasonable attorney's fees and damages of Kronos or its

Suppliers, if the action is arising from or relating to: (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 and/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. LIMITATION OF LIABILITY**

**13.1** EXCEPT AS SPECIFICALLY PROVIDED WITHIN THIS AGREEMENT, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

**13.2** EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 12 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS OR ITS SUPPLIERS TO CUSTOMER AND/OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES.

**13.3** IN NO EVENT SHALL KRONOS OR ITS SUPPLIERS, THEIR AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THIS 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.

**13.4** EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SOFTWARE OR SYSTEMS, OR MACHINE ERROR



**Directors**

Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**

Paul R. Eldredge  
*General Manager/  
District Engineer*

David M. O'Hara  
*Attorney*

**DATE:** November 3, 2014

**MEMO TO:** Board of Directors - Union Sanitary District

**FROM:** Paul R. Eldredge, General Manager/District Engineer

**SUBJECT:** Agenda Item No. 9 - Meeting of November 10, 2014  
**MOTION TO CANCEL OR RESCHEDULE THE DECEMBER 22, 2014  
BOARD OF DIRECTORS MEETING**

**Recommendation**

None.

**Background**

The second regularly scheduled meeting of the Board of Directors in December falls during the same period as the Christmas holidays. Traditionally, this is a time that many employees take vacation leave, and in the past, the Board has canceled the second meeting in December. Again this year, staff is recommending the Board consider canceling or rescheduling the meeting scheduled for December 22, 2014. We do not anticipate any critical actions requiring Board approval relative to either operations or contract work.

The next regular Board Meeting would be held on Monday, January 12, 2015.

**Directors**

Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**

Paul R. Eldredge  
*General Manager/  
District Engineer*

David M. O'Hara  
*Attorney*

**DATE:** November 3, 2014

**MEMO TO:** Board of Directors - Union Sanitary District

**FROM:** Paul R. Eldredge, General Manager/District Engineer

**SUBJECT:** Agenda Item No. 10 - Meeting of November 10, 2014  
**BOARD MEMBER COMPENSATION FOR 2015**

**Recommendation**

The Budget & Finance Committee will present their recommendation to the Board.

**Background**

The California Health and Safety Code (code section 4733 and 6489) allows for an increase in Board Member compensation of up to 5% per year. In 2000, the Board adopted Ordinance #44 stating that on January 1 of each year, Board Member compensation shall be increased by the amount of increase of the classified employees' wages for the year. The Ordinance also provides for the Board to review the compensation increase prior to it going into effect on January 1. Board Members have voted not to increase their meeting stipend since 2003.

The classified employee contract provided for an increase in 2014 of 3.5% to the base salaries. The Bay Area Consumer Price Index (CPI) increased by 2.9% from August 2013 to August 2014.

Attached is a copy of Ordinance #44 as well as a summary of the Board actions on this matter since 2000.

**ORDINANCE #44**

**Directors' Compensation**

I. Effective January 1, 2001, Directors of Union Sanitary District shall receive a stipend in the amount of \$198.00 for each day of service to Union Sanitary District as authorized by Health and Safety Code Sections 4733 and 6489 as recently revised by Senate Bill 1559-Kelly. This compensation will be paid for no more than six (6) days of service per calendar month.

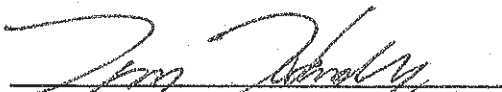
II. On January 1 of each year thereafter Director compensation shall increase by the same percentage as all increases in total compensation of Union Sanitary District Classified Employees using the compensation of classified employees effective January 1, 2001 as a basis of increases and \$ 198.00 per day of service as the basis increases in Director stipends. In no event shall Director compensation exceed the 5% annual increase permitted by Health and Safety Sections [REDACTED] and 6489 compounded from January 1, 1987. 4733

III. The Board of Directors of Union Sanitary District shall have the option of reviewing compensation of Directors on an annual basis before the effective date of any increase set forth in Section II, above.

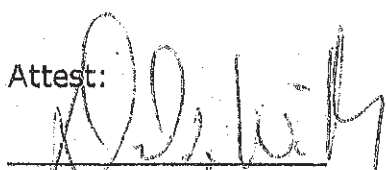
IV. The compensation of Directors set forth above will be in addition to any benefits currently provided to Directors or to be authorized and approved for sanitary district directors in the future.

Adopted by the following vote on October 23, 2000:

AYES:	<u>Handley, Kite, Roberts, Toy</u>
NOES:	<u>Wilkowsky</u>
ABSTAINED:	<u>None</u>
ABSENT:	<u>None</u>

  
TOM HANDLEY, Chairperson  
Board of Directors  
UNION SANITARY DISTRICT

Attest:

  
DANIEL I. WILKOWSKY  
Secretary, Board of Directors  
UNION SANITARY DISTRICT

## History of Board Member Compensation 2000 – Present

Calendar Year	Board Meeting Compensation (per day of service, maximum 6/month)	Notes/Background
2000	\$100	Per State Law, Health and Safety Code 4933, 6489
2001	\$198  See Note 1 for calculation.	Per amended Health and Safety Code with Reference to Water Code, USD passed Ordinance 44 (4-1 vote on 10/23/2000) establishing new baseline of \$198/day of service using allowable escalator from Water Code. Established annual increase equal to classified employee increase per USD/Union employee contract, with provision for Board to discuss annually.
2002	\$205.92	Increase per Ordinance 44 based on 4% increase for classified employees in 2001. No action taken by Board of Directors.
2003	\$212.10	Increase per Ordinance 44 based on 3% increase for classified employees in 2002. Board agreed to take no action on Ordinance 44 (11/11/2002)
2004	\$212.10	Board voted 5-0 not to increase compensation for 2004. (11/24/2003)
2005	\$212.10	Board voted 5-0 not to increase compensation for 2005. (11/22/2004)
2006	\$212.10	Board agreed by consensus not to increase compensation for 2006. (1/9/2006)
2007	\$212.10	Board agreed by consensus not to increase compensation for 2007. (12/11/2006)
2008	\$212.10	Board agreed by consensus not to increase compensation for 2008. (12/10/2007)
2009	\$212.10	Board voted unanimously not to increase compensation for 2009. (11/24/08)

Note 1: H&S and Water Codes established a method for calculating new baseline as a maximum of 5% per year since the last adjustment. The \$100 per meeting was established in 1986. Ordinance 44 was adopted in 2000. The time period for adjustment was 1986-2000, or 14 years. The new meeting fee was calculated as  $\$100 \times 1.05^{14} = \$198.00$ .

<b>Calendar Year</b>	<b>Board Meeting Compensation (per day of service, maximum 6/month)</b>	<b>Notes/Background</b>
2010	\$212.10	Board voted unanimously not to increase compensation for 2010. (11/23/2009)
2011	\$212.10	Board voted unanimously not to increase compensation for 2011. (11/22/2010)
2012	\$212.10	Board voted unanimously not to increase compensation for 2012. (11/27/2011)
2013	\$212.10	Board voted unanimously not to increase compensation for 2013. (11/26/2012)
2014	\$212.10	Board voted unanimously not to increase compensation for 2014. (11/23/2013)

Note 1: H&S and Water Codes established a method for calculating new baseline as a maximum of 5% per year since the last adjustment. The \$100 per meeting was established in 1986. Ordinance 44 was adopted in 2000. The time period for adjustment was 1986-2000, or 14 years. The new meeting fee was calculated as  $\$100 \times 1.05^{14} = \$198.00$ .

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155663	10/23/2014	13323	SAK CONSTRUCTION LLC	UPPER HETCH HETCHY SS REHABILITATION	\$855,879.08	\$855,879.08
155699	10/30/2014	800403.1	D'ARCY & HARTY CONSTRUCTION	MISC. SS SPOT REPAIRS PHASE V PROJECT	\$434,816.90	\$434,816.90
155701	10/30/2014	3773	DW NICHOLSON CORP	PRIMARY DIGESTER #5 REHABILITATION	\$87,687.28	\$204,559.25
	10/30/2014	3798		COGENERATION PROJECT	\$116,871.97	
155619	10/23/2014	201300819	COVELLO GROUP INC	COGENERATION PROJECT	\$51,689.75	\$82,164.54
	10/23/2014	20130355		THICKENER CONROL BUILDING IMPROVEMENTS PHASE II	\$30,474.79	
155654	10/23/2014	170120141009	PACIFIC GAS AND ELECTRIC	SERV TO 09/22/14 PLANT	\$76,903.93	\$76,903.93
155737	10/30/2014	778631	WESTERN STATES OIL CO	4,490 GALS UNDYED CARB ULTRA LOW SULFUR DIESEL	\$14,754.66	\$30,347.22
	10/30/2014	778630		4,980 GALS UNLEADED GASOLINE WITH 10% ETHANOL	\$15,592.56	
155736	10/30/2014	2025950	WEST YOST & ASSOCIATES	NEWARK BACKYARD SS RELOCATION - PHASE 2	\$20,418.12	\$20,418.12
155609	10/23/2014	5104858	ALL INDUSTRIAL ELECTRIC SUPPLY	60 E-LIGHTFIXTURES, 1,000 MINATURE BULBS	\$127.92	\$15,096.02
	10/23/2014	5104857		3 LED POST TOP LAMP	\$308.79	
	10/23/2014	5104804		21 LED HIGH BAY 18K LIGHTS	\$14,659.31	
155626	10/23/2014	901892331	EVOQUA WATER TECHNOLOGIES	DI WATER SYSTEM	\$330.00	\$12,090.21
	10/23/2014	90188/0013		2,533 GALS HYDROGEN PEROXIDE	\$11,760.21	
155682	10/30/2014	62527	3T EQUIPMENT COMPANY INC	3 3-PIN MALE X 6-PIN FEMALE 30"	\$589.89	\$12,074.25
	10/30/2014	62547		24 PIPEPATCH KIT - WINTER	\$11,484.36	

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CHECK REGISTER  
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Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155630	10/23/2014	225079	CITY OF FREMONT	UPPER HETCH HECTCHY SS REHABILITATION	\$11,830.34	\$11,830.34
155669	10/23/2014	645168	UNIVAR USA INC	4,957 GALS SODIUM HYPOCHLORITE	\$2,291.12	\$11,500.44
	10/23/2014	645306		5,016 GALS SODIUM HYPOCHLORITE	\$2,318.39	
	10/23/2014	645354		4,957 GALS SODIUM HYPOCHLORITE	\$2,291.12	
	10/23/2014	645594		5,009 GALS SODIUM HYPOCHLORITE	\$2,315.16	
	10/23/2014	645326		4,943 GALS SODIUM HYPOCHLORITE	\$2,284.65	
155622	10/23/2014	87581	DEGENKOLB ENGINEERS	SEISMIC STUDY	\$8,228.47	\$8,228.47
155659	10/23/2014	1254	QUANTUM RESOLVE INC	HANSEN 8 UPGRADE	\$7,700.00	\$7,700.00
155677	10/23/2014	2025951	WEST YOST & ASSOCIATES	MISC SS SPOT REPAIRS PHASE V	\$4,950.00	\$7,676.00
	10/23/2014	2025952		UPPER HETCH HECTCHY SS REHABILITATION	\$2,726.00	
155640	10/23/2014	4042	J2 BUILDING CONSULTANTS INC	ADMIN & FIELD OPS BUILDING LEAK INVESTIGATION	\$6,905.00	\$6,905.00
155684	10/30/2014	141002518	AIRTECH MECHANICAL INC	OLD GAS CONDITIONING SKID CHILLER COMPRESSOR REPLACEMENT	\$6,177.00	\$6,177.00
155638	10/23/2014	19751	IEDA INC	LABOR RELATIONS CONSULTING 10/01/14 - 12/31/14	\$5,460.00	\$5,460.00
155641	10/23/2014	9017413785	KEMIRA WATER SOLUTIONS, INC.	8.03 DRY TONS FERROUS CHLORIDE	\$5,251.62	\$5,251.62
155652	10/23/2014	97720141002	DAVID M O'HARA ATTY AT LAW	CIP LEGAL - SEPT 2014	\$829.50	\$5,008.50
	10/23/2014	86420141002		GENERAL LEGAL - SEPT 14	\$4,179.00	
155712	10/30/2014	9017414930	KEMIRA WATER SOLUTIONS, INC.	7.41 DRY TONS FERROUS CHLORIDE	\$4,846.14	\$4,846.14
155732	10/30/2014	646686	UNIVAR USA INC	5,015 GALS SODIUM HYPOCHLORITE	\$2,317.93	\$4,636.32
	10/30/2014	647495		5,016 GALS SODIUM HYPOCHLORITE	\$2,318.39	

**UNION SANITARY DISTRICT  
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Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155679	10/23/2014	1204521620	WRA ENVIRONMENTAL CONSULTANTS	FORCE MAIN CONSTRUCTION	\$4,447.25	\$4,447.25
155615	10/23/2014	459591	BRENNTAG PACIFIC, INC.	2564 LBS SODIUM HYDROXIDE	\$1,416.95	\$4,250.84
	10/23/2014	459590		5128 LBS SODIUM HYDROXIDE	\$2,833.89	
155656	10/23/2014	140930	PROSAFE	40 HRS INSPECTIONS & 2 HRS SPCC	\$4,200.00	\$4,200.00
155666	10/23/2014	20140930	STATE BOARD OF EQUALIZATION	SALES & USE TAX 07/14-09/14	\$3,723.00	\$3,723.00
155643	10/23/2014	7228	PETER LIN	REFUND # 17565	\$3,300.00	\$3,300.00
155693	10/30/2014	98664	CDW GOVERNMENT LLC	1 VMWARE VSPHERE 5 ENTERPRISE 1 CPU LICENSE	\$3,250.00	\$3,250.00
155710	10/30/2014	20141027	HASLER INC.	POSTAGE BY PHONE - TMS 35928	\$3,000.00	\$3,000.00
155673	10/23/2014	15198	VINTAGE CATERING	CATERING RICH CURRIE RETIREMENT PARTY	\$2,901.58	\$2,901.58
155607	10/23/2014	7574	AAA AFFORDABLE PLUMBING	REFUND # 17564	\$2,500.00	\$2,500.00
155658	10/23/2014	7417	PULTE HOME CORPORATION	REFUND # 17548	\$2,500.00	\$2,500.00
155642	10/23/2014	138	KINDERS MEATS DELI & BBQ	CATERING FOR ANNUAL EMPLOYEE RECOG BBQ 2014	\$2,318.01	\$2,318.01
155653	10/23/2014	XCTZ008	PACHECO BROTHERS GARDENING INC	LANDSCAPE MAINTENANCE SERVICES OCT 2014	\$1,365.00	\$2,280.00
	10/23/2014	XCTZ009		WEED ABATEMENT WORK OCT 2014	\$915.00	
155691	10/30/2014	461489	BRENNTAG PACIFIC, INC.	2564 LBS SODIUM HYDROXIDE	\$1,416.95	\$2,125.41
	10/30/2014	461488		1282 LBS SODIUM HYDROXIDE	\$708.46	
155705	10/30/2014	108817320001	GEXPRO	SOFTWARE SUPPORT	\$2,003.00	\$2,003.00



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10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155623	10/23/2014	7539	DRAIN DOCTOR	REFUND # 17549	\$500.00	\$2,000.00
	10/23/2014	7575		REFUND # 17563	\$500.00	
	10/23/2014	7572		REFUND # 17561	\$500.00	
	10/23/2014	7570		REFUND # 17560	\$500.00	
155671	10/23/2014	27815	VALLEY OIL COMPANY	2 DRS MOBIL PEGASUS 805 & 30 TUBES CHEVRON ULTRA DUTY EP2	\$1,962.17	\$1,962.17
155709	10/30/2014	3H7770	HARRINGTON INDUSTRIAL PLASTICS	RENTAL - PLASTIC FUSION MACHINE 8/1 - 9/15/14	\$1,881.78	\$1,881.78
155647	10/23/2014	15101100	MCMASTER SUPPLY INC	6 EA YOR-LOK FITTINGS	\$467.89	\$1,646.76
	10/23/2014	14942059		10 EA PVC PIPE FITTINGS	\$31.52	
	10/23/2014	15016192		4 EA WEATHER-RESISTANT STEEL ENCLOSURES	\$276.68	
	10/23/2014	15308655		ASTD PARTS & MATERIALS	\$482.38	
	10/23/2014	13715778		2 EA FIRE EXTINGUISHER COVERS	\$34.23	
	10/23/2014	14834857		1 EA WEATHER-RESISTANT HEAT-SHRINK TUBING	\$45.01	
	10/23/2014	15074347		ASTD PARTS & MATERIALS	\$150.04	
	10/23/2014	14992265		1 EA 12-OUNCE PUMP BOTTLE PURELL HAND SANITIZER	\$14.23	
	10/23/2014	14958631		4 EA THREADED-STEM SWIVEL CASTERS	\$106.89	
	10/23/2014	15308654		1 EA RECHARGEABLE NICAD BATTERY PACK	\$37.89	
155629	10/23/2014	116521682	FREMONT URGENT CARE CENTER	2 NEW HIRE PHYSICALS/2 DOT PHYSICALS	\$375.00	\$1,635.00
	10/23/2014	171921683		63 FLU VACCINES	\$1,260.00	
155610	10/23/2014	8480049189	ANDRITZ SEPARATION INC	1 CENTRIFUGE 1 GEARBOX AND GEARBOX REPAIR KIT	\$1,365.99	\$1,365.99

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155688	10/30/2014	87896581208252014	AT&T	SERV: 07/18/14 - 08/17/14	\$678.84	\$1,357.68
	10/30/2014	87896581209252014		SERV: 08/18/14 - 09/17/14	\$678.84	
155698	10/30/2014	250535	CURTIS & TOMPKINS LTD	25 LAB SAMPLE ANALYSIS	\$1,320.00	\$1,320.00
155639	10/23/2014	4924	IRON MOUNTAIN	OFF-SITE STORAGE AND SERVICE - SEPT 2014	\$807.60	\$1,319.73
	10/23/2014	5446		OFF-SITE STORAGE AND SERVICE - SEPT 2014	\$287.28	
	10/23/2014	200424364		DATA/MEDIA OFF-SITE STORAGE - SEPT 2014	\$224.85	
155675	10/23/2014	32503	WECO INDUSTRIES LLC	ASTD PARTS & MATERIALS	\$291.39	\$1,292.69
	10/23/2014	32510		2 Y ELIMINATOR & 2 STRAIN RELIEF	\$1,001.30	
155695	10/30/2014	34973	COLLICUTT ENERGY SERVICES INC	12 GEN SPARK PLUGS	\$1,275.11	\$1,275.11
155621	10/23/2014	20140925.25	DALE HARDWARE INC	09/14 - ASTD PARTS & MATERIALS	\$1,234.63	\$1,234.63
155612	10/23/2014	677	AUTOMATED NETWORK CONTROLS	BOYCE ROAD LIFT STATION PROJECT	\$1,215.12	\$1,215.12
155715	10/30/2014	96139	MCINERNEY & DILLON, P.C.	LEGAL SERVICES - AUDIT RESPONSE LETTER	\$140.00	\$1,190.00
	10/30/2014	96140		LEGAL SERVICES - COGEN PROJ - MAINTENANCE AGREEMENT	\$1,050.00	
155716	10/30/2014	15603110	MCMaster SUPPLY INC	2 LOW PROFILE TYPE 316 STAINLESS STEEL BALL VALVE	\$222.34	\$1,182.79
	10/30/2014	15665463		ASTD PARTS & MATERIALS	\$902.67	
	10/30/2014	15614786		1 DIN-RAIL MOUNT AC TO DC TRANSFORMER	\$57.78	
155703	10/30/2014	10016	EUROFINS AIR TOXICS INC	2 LAB SAMPLE ANALYSIS	\$962.50	\$962.50
155667	10/23/2014	603501920	TELEPACIFIC COMMUNICATIONS	WIRELESS INTERNET BACKUP - OCTOBER	\$960.00	\$960.00
155624	10/23/2014	1410256	ELECTRO-MOTION INC	FPS GENERATOR TROUBLESHOOTING	\$950.00	\$950.00

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155649	10/23/2014	24831330	MOTION INDUSTRIES INC	1 EA GREASE	\$216.77	\$919.39
	10/23/2014	24831565		8 EA AIR FILTERS	\$690.75	
	10/23/2014	24832012		1 EA V-BELT	\$11.87	
155665	10/23/2014	8122768100914	SIERRA SPRING WATER COMPANY	BOTTLESS COOLERS RENTAL	\$239.00	\$907.03
	10/23/2014	4868173100914		WATER SERVICE 09/12/14 - 10/09/14	\$668.03	
155618	10/23/2014	20140929	COMMUNICATION & CONTROL INC	UTILITY FEE/ANTENNA RENTAL	\$903.51	\$903.51
155722	10/30/2014	11216472	QUIKRETE NORTHERN CALIFORNIA	112 BGS 60# BLACKTOP PATCH	\$827.03	\$827.03
155608	10/23/2014	9921801905	AIRGAS NCN	CYLINDER RENTAL	\$744.75	\$744.75
155661	10/23/2014	7538492400	RS HUGHES CO INC	20 BXS MICROFLEX SAFEGRIP LATEX GLOVES	\$285.32	\$739.03
	10/23/2014	7541032600		2 BXS EAR PLUG PUSH IN	\$193.32	
	10/23/2014	7541032602		1 DZ GLOVES LEATHER PIGSKIN SZ XLRG	\$79.56	
	10/23/2014	7534951804		10 VEST SAFETY MESH SIZE XL CLASS II LIME W	\$180.83	
155718	10/30/2014	3600	OJO TECHNOLOGY INC	ONSSI VIDEO SOFTWARE UPGRADE PLAN	\$706.00	\$706.00
155633	10/23/2014	9541616026	GRAINGER INC	1 ENCLOSURE WINDOW KIT	\$152.64	\$703.31
	10/23/2014	9544408454		42 EA LAMP HOLDERS	\$65.76	
	10/23/2014	9540826113		2 PACKS INSPECTION LABELS	\$81.20	
	10/23/2014	9542989927		ASTD PARTS & MATERIALS	\$363.98	
	10/23/2014	9539276700		1 EA TAP BOLT	\$21.69	
	10/23/2014	9542989935		2 EA UNLOADER VALVE, 2 WAY	\$18.04	

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155628	10/23/2014	9500	FREMONT EXPRESS COURIER SVC	COURIER SERVICES: SEP 2014	\$690.00	\$690.00
155696	10/30/2014	4754323	CORT	SEP 2014 FURNITURE RENTAL - GM OFFICE	\$493.14	\$686.28
	10/30/2014	4787092		OCT 2014 FURNITURE RENTAL - GM OFFICE	\$193.14	
155726	10/30/2014	1134438	ROCHESTER MIDLAND CORPORATION	HOT WATER LOOP SERVICE	\$685.90	\$685.90
155713	10/30/2014	20141030	DAVID LEATH	EXP REIMB: NFPA NEC & 70E TRAINING SEATTLE, WA	\$682.36	\$682.36
155687	10/30/2014	8480049363	ANDRITZ SEPARATION INC	1 SET CENTRIFUGE 1 GEARBOX AND GEARBOX REPAIR KIT	\$654.09	\$654.09
155708	10/30/2014	9545970023	GRAINGER INC	1 EA PILOT LIGHT	\$207.44	\$647.86
	10/30/2014	9545415524		4 EA OIL ABSORBENT BOOMS	\$254.04	
	10/30/2014	9546897910		1 EA ADJUSTABLE WRENCH SET	\$49.49	
	10/30/2014	9550680335		20 PACKS DISPOSABLE GLOVES	\$136.89	
155617	10/23/2014	33391	CLAREMONT BEHAVIORAL SERVICES	NOV 2014 EAP PREMIUM	\$630.20	\$630.20
155645	10/23/2014	2006	MATHESON ENVIRONMENTAL SERVICE	ENVIRONMENTAL SERVICES - RECYCLING	\$198.00	\$594.00
	10/23/2014	2014		ENVIRONMENTAL SERVICES - RECYCLING	\$396.00	
155719	10/30/2014	20141028	MICHELLE POWELL	EXP REIMB: CASA ANNUAL CONFERENCE	\$570.18	\$570.18
155724	10/30/2014	8200000007785	RED WING SHOE STORE	SAFETY SHOES - SCHWARTZ, CHIU & LI	\$561.03	\$561.03
155625	10/23/2014	90060391204	ENTERPRISE GOV 43-1514861	RENTAL: D.LU, HOUSTON, TX	\$511.75	\$511.75
155738	10/30/2014	115061	WILDWOOD LODGE, PEWAUKEE, WI	JENBACHER TRAINING LODGING - COOPER	\$511.05	\$511.05
155644	10/23/2014	10576	LOOKINGPOINT INC	MONTHLY PREMIER SUPPORT - OCT 2014	\$500.00	\$500.00
155655	10/23/2014	7569	PACIFIC GAS AND ELECTRIC	REFUND # 17562	\$500.00	\$500.00

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155581	10/23/2014	7562	SHI ZHAO	REFUND # 17550	\$500.00	\$500.00
155694	10/30/2014	7333	CHUNG Y. CHUNG	REFUND # 17575	\$500.00	\$500.00
155702	10/30/2014	7580	E Z PLUMBING	REFUND # 17574	\$500.00	\$500.00
155740	10/30/2014	7504	JENNY YANG	REFUND # 17559	\$500.00	\$500.00
155635	10/23/2014	9045472	HACH COMPANY	ASTD SAMPLING SUPPLIES	\$493.52	\$493.52
155690	10/30/2014	10430490	BLAISDELL'S	ASTD OFFICE SUPPLIES	\$103.69	\$483.72
	10/30/2014	10430680		ASTD OFFICE SUPPLIES	\$41.80	
	10/30/2014	10430970		ASTD OFFICE SUPPLIES	\$278.02	
	10/30/2014	10430971		1 LOG BOOK	\$60.21	
155734	10/30/2014	8059147208	VWR INTERNATIONAL LLC	1 RD STABLCAL 20 NTU 500ML	\$76.87	\$478.28
	10/30/2014	8059152170		1 CLP ICP INTEF CHECK 500ML	\$401.41	
155717	10/30/2014	41427409	OFFICE TEAM	TEMP LABOR-BLANCHETTE, V., WKEND 10/03/14	\$476.25	\$476.25
155650	10/23/2014	20141020.1	SHAWN NESGIS	EXP REIMB: REGIS FEE MSA LUNCH, SUNOL, 10/7/14	\$10.00	\$446.21
	10/23/2014	20141020		EXP REIMB: LODGING & MEALS - MSA ANNUAL CONF, SACRAMENTO	\$436.21	
155616	10/23/2014	46729	CITYLEAF INC	PLANT MAINTENANCE - OCT 2014	\$429.65	\$429.65
155686	10/30/2014	5105270	ALL INDUSTRIAL ELECTRIC SUPPLY	2 E-LIGHTFIXTURES, MINATURE BULBS	\$296.09	\$419.80
	10/30/2014	5105409		700 E-LIGHTFIXTURES, MINATURE BULBS	\$123.71	
155707	10/30/2014	75887	GORILLA METALS	ASTD METAL, STEEL, STAINLESS, AND ALUMINUM	\$362.56	\$362.56

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155631	10/23/2014	1189423301	GLACIER ICE COMPANY INC	126 EA 7 POUND BAGS OF ICE	\$166.32	\$348.48
	10/23/2014	1183425512		138 EA 7 POUND BAGS OF ICE	\$182.16	
155727	10/30/2014	7541032601	RS HUGHES CO INC	20 VEST SAFETY MESH SIZE LRG CLASS II LIME	\$346.69	\$346.69
155674	10/23/2014	8059078580	VWR INTERNATIONAL LLC	1 DETERGENTS TEST KIT IN WATER	\$70.58	\$333.55
	10/23/2014	8059092429		2 IONIC STRENGTH ADJUSTOR 32OZ	\$63.40	
	10/23/2014	8059085491		1 BUFFER BOD POWDER 19ML	\$63.41	
	10/23/2014	8059088384		1 SODIUM HYDROXIDE 0.1N 1L	\$13.70	
	10/23/2014	8059061675		4 BUFFER PH 6.86 1GAL	\$122.46	
155739	10/30/2014	76308020	XEROX CORPORATION	MTHLY MAINTENANCE BASED ON USE	\$320.23	\$320.23
155651	10/23/2014	41375064	OFFICE TEAM	TEMP LABOR-BLANCHETTE, V., WKEND 09/26/14	\$304.80	\$304.80
155662	10/23/2014	2489068002	S & S SUPPLIES & SOLUTIONS	4 HARD HAT RATCHET SUSPENSIONS & 100 BRIEF RELIEF	\$257.11	\$303.10
	10/23/2014	2489068001		30 GLASSES SAFETY EYEWEAR PROTECTIVE VIRTUA GRAY LENS	\$45.99	
155730	10/30/2014	20141029	SWRCB - CERTIFICATIONS	GRADE III CERT RENEW - HARRIS	\$300.00	\$300.00
155634	10/23/2014	1033258	GROENIGER AND COMPANY	2 EA 8 CS 150# FF SO FLG	\$112.84	\$275.59
	10/23/2014	1031166		2 EA 10 CS 150# FF SO FLG	\$162.75	
155714	10/30/2014	20141029	DAVID LIVINGSTON	EXP REIMB: TREATMENT PLANT OVERVIEW BROWN BAG	\$275.05	\$275.05
155720	10/30/2014	98783	PREFERRED ALLIANCE INC	SEPTEMBER 2014 SERVICE FEE	\$273.00	\$273.00

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155721	10/30/2014	64010	PURRFECT AUTO SERVICE	SMOG INSPECTION	\$29.95	\$269.55
	10/30/2014	63982		SMOG INSPECTION	\$29.95	
	10/30/2014	63958		SMOG INSPECTION	\$29.95	
	10/30/2014	63981		SMOG INSPECTION	\$29.95	
	10/30/2014	63996		SMOG INSPECTION	\$29.95	
	10/30/2014	64024		SMOG INSPECTION	\$29.95	
	10/30/2014	64014		SMOG INSPECTION	\$29.95	
	10/30/2014	64015		SMOG INSPECTION	\$29.95	
	10/30/2014	64021		SMOG INSPECTION	\$29.95	
155683	10/30/2014	9032133258	AIRGAS NCN	ASTD PARTS & MATERIALS	\$263.76	\$263.76
155620	10/23/2014	250373	CURTIS & TOMPKINS LTD	1 LAB SAMPLE ANALYSIS	\$30.00	\$245.00
	10/23/2014	250522		1 LAB SAMPLE ANALYSIS	\$20.00	
	10/23/2014	250440		11 LAB SAMPLE ANALYSIS	\$195.00	
155664	10/23/2014	20141020	JAMES SCHOFIELD	EXP REIMB: LUNCH PROCTORS CSWI	\$148.39	\$234.24
	10/23/2014	20141017		EXP REIMB: EMPLOYEE RECOGNITION BBQ	\$85.85	
155728	10/30/2014	85340220141021	SAN FRANCISCO WATER DEPT	SERVICE 09/18/14 TO 10/21/14	\$232.44	\$232.44
155729	10/30/2014	20141024	JENNIFER SIO-KWOK	EXP REIMB: LUNCHES FOR 3 RECRUITMENT	\$221.76	\$221.76
155735	10/30/2014	32312	WECO INDUSTRIES LLC	REPAIR OZIII CAMERA	\$221.02	\$221.02
155613	10/23/2014	17250600	BECK'S SHOES	SAFETY SHOES - M. FARSAI	\$200.10	\$200.10

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155611	10/23/2014	20141022	ROLLIE ARBOLANTE	EXP REIMB: CUSTOMER SERVICE TEAM 2ND Q SAFETY RECOGNITION	\$200.00	\$200.00
155711	10/30/2014	601336129	HILLYARD/SAN FRANCISCO	6 EA ARSENAL NON-ACID RR DISINF CLNR	\$120.26	\$194.55
	10/30/2014	601333019		2 CS TOILET PAPER	\$74.29	
155627	10/23/2014	1110691	FASTENAL	ASTD PARTS & MATERIALS	\$179.60	\$179.60
155733	10/30/2014	9853404	UPS - UNITED PARCEL SERVICE	SHIPPING CHARGES W/E 10/04/14	\$178.62	\$178.62
155725	10/30/2014	1690000008941	RED WING SHOE STORE	SAFETY SHOES - ELDREDGE	\$176.43	\$176.43
155689	10/30/2014	17270400	BECK'S SHOES	SAFETY SHOES - B. MEDEIROS	\$175.10	\$175.10
155637	10/23/2014	601326527	HILLYARD/SAN FRANCISCO	6 GALLONS HAND SOAP	\$162.05	\$162.05
155648	10/23/2014	20141021	STUART MORRISON	EXP REIMB: LUNCH FOR CSW PHYSICAL ABILITIES TEST ON 10/17/14	\$157.68	\$157.68
155636	10/23/2014	3H6899	HARRINGTON INDUSTRIAL PLASTICS	ASTD PARTS AND MATERIALS	\$138.53	\$157.17
	10/23/2014	3H6951		5 EA BUSHINGS	\$18.64	
155660	10/23/2014	68030	REMOTE SATELLITE SYSTEMS INT'L	IRIDIUM SVC FEE OCTOBER 2014	\$142.90	\$142.90
	10/23/2014	67823CM		IRIDIUM SVC FEE OCTOBER 2014	\$48.95	
	10/23/2014	67823		IRIDIUM SVC FEE OCTOBER 2014	\$48.95	
155614	10/23/2014	10416721	BLAISDELL'S	12 DZ PENCILS	\$8.67	\$138.63
	10/23/2014	10422310		1 PK WO DVD-R	\$43.79	
	10/23/2014	10416090		ASTD OFFICE SUPPLIES	\$62.32	
	10/23/2014	10416720		ASTD OFFICE SUPPLIES	\$23.85	
155668	10/23/2014	100666019	TRS-RENTELCO	22 DAY POWER ANALYZER RENTAL	\$136.51	\$136.51



**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
155680	10/23/2014	76235799	XEROX CORPORATION	MTHLY MAINTENANCE BASED ON USE	\$106.85	\$132.94
	10/23/2014	76235796		MTHLY MAINTENANCE BASED ON USE	\$14.09	
	10/23/2014	76235797		MTHLY MAINTENANCE BASED ON USE	\$12.00	
155676	10/23/2014	2000120065	WENDEL ROSEN BLACK & DEAN LLP	SOLYNDRA LLC BANKRUPTCY	\$132.30	\$132.30
155723	10/30/2014	13550	R & S ERECTION OF S ALAMEDA	PM SERVICE ON GATE	\$111.00	\$111.00
155678	10/23/2014	24247	WILEY PRICE & RADULOVICH LLP	LABOR & EMPLOYMENT LAW FEES	\$92.00	\$92.00
155685	10/30/2014	5375552832015	ALAMEDA COUNTY TREASURER	PROPERTY TAXES 37159 HICKORY ST	\$85.00	\$85.00
155697	10/30/2014	20141023	MITCHELL COSTELLO	MILEAGE REIMB: CWEA NORTHERN SAFETY DAY 2014	\$65.91	\$65.91
155692	10/30/2014	61075	STATE OF CALIFORNIA	2 NEW HIRE FINGERPRINTS	\$64.00	\$64.00
155706	10/30/2014	1841068753	GOODYEAR COMM TIRE & SERV CTRS	DISPOSE OF 11 TIRES	\$55.00	\$55.00
155704	10/30/2014	1110725	FASTENAL	ASTD PARTS & MATERIALS	\$51.00	\$51.00
155646	10/23/2014	77738983	MATHESON TRI-GAS INC	CYLINDER RENTAL - SEPT 2014	\$34.30	\$34.30
155632	10/23/2014	75757	GORILLA METALS	ASTD METAL, STEEL, STAINLESS, AND ALUMINUM	\$30.64	\$30.64
155700	10/30/2014	615320141018	DISH NETWORK	NOV 2014 - SERVICE FEE	\$25.61	\$25.61
155731	10/30/2014	20141029	DUC TRINH	PRE-EMPLOYMENT LIVE SCAN FEE	\$20.00	\$20.00
155670	10/23/2014	9853394	UPS - UNITED PARCEL SERVICE	SHIPPING CHARGES W/E 09/27/14	\$15.36	\$15.36
155672	10/23/2014	9732913794	VERIZON WIRELESS	WIRELESS SERV 09/02/14-10/01/14	\$14.04	\$14.04
155657	10/23/2014	582986	PUBLIC SURPLUS AUCTION	SURPLUS SALE FEE: DODGE DAKOTA TAILGATE	\$3.92	\$3.92

**UNION SANITARY DISTRICT  
CHECK REGISTER  
10/18/2014-10/31/2014**

Check No.	Date	Invoice No.	Vendor	Description	Invoice Amt	Check Amt
<b>Invoices:</b>				<b>Checks:</b>		
Credit Memos :		1	-48.95			
\$0 - \$1,000 :		163	43,409.72	\$0 - \$1,000 :	83	31,237.86
\$1,000 - \$10,000 :		42	127,301.72	\$1,000 - \$10,000 :	39	126,567.59
\$10,000 - \$100,000 :		11	347,255.31	\$10,000 - \$100,000 :	9	272,425.07
Over \$100,000 :		3	1,407,567.95	Over \$100,000 :	3	1,495,255.23
Total:		220	1,925,485.75	Total:	134	1,925,485.75

**BOARD OF DIRECTORS**  
**QUARTERLY TRAVEL AND TRAINING EXPENDITURE REPORT**  
**1ST QTR, FISCAL YEAR 2015**

Board Members	Description	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Beginning Balance	Y-T-D Expense	Balance Available
FERNANDEZ, MANNY	Union City - State of the City Luncheon: Registration	30.00						
	<b>TOTAL</b>	30.00	0.00	0.00	0.00	5000.00	30.00	4970.00
HANDLEY, TOM	Union City - State of the City Luncheon: Registration	30.00						
	59th CASA Conference: Registration	500.00						
HARRISON, JENNIFER	<b>TOTAL</b>	530.00	0.00	0.00	0.00	5000.00	530.00	4470.00
KITE, PAT	<b>TOTAL</b>	0.00	0.00	0.00	0.00	5000.00	0.00	5000.00
LATHI, ANJALI	Union City - State of the City Luncheon: Registration	30.00						
	59th CASA Conference: Registration	500.00						
	59th CASA Conference: Lodging	652.70						
	59th CASA Conference: Meals	20.36						
	59th CASA Conference: Mileage & Tips	101.64						
	<b>TOTAL</b>	0.00	0.00	0.00	0.00	5000.00	0.00	5000.00
<b>GRAND TOTAL</b>		1,304.70	0.00	0.00	0.00	5000.00	1,304.70	3695.30
		1,864.70	0.00	0.00	0.00	25000.00	1,864.70	23135.30

The Board of Directors' Quarterly Expenditure Report is attached as part of the check register in accordance with Board Member Business Expense policy adopted September 5, 1991



# EXPENSE/PAYMENT REQUEST FORM

1. Requested by: Carol Rice

Date Needed: 9/5/14

What type of payment are you requesting?

- ☒ **Prepayment** A payment that is made in advance (seminars, memberships, permits, etc). Attach supporting documents.  
☐ **Reimbursement** A payment that is for items already purchased. Receipts must be attached for all expenses.

2. Make check payable to: Union City Chamber of Commerce

☐ Return Check to:

☒ Mail to Address: 3939 Smith Street, Union City, CA 94587

3. Description of Expense:

Event Dates: From: 9/30/14

To: 9/30/14

The Union City Chamber of Commerce and City of Union City 2014 State of the City Address Luncheon

4. Purpose of Expense	Account to Charge	Amount
<input checked="" type="checkbox"/> Registration	Various (See #7)	\$150.00
<input type="checkbox"/> Membership	RECEIVED SEP 03 2014 ACCOUNTS PAYABLE	
<input type="checkbox"/> Subscription		
<input type="checkbox"/> Permit		
<input type="checkbox"/> Award or Recognition (Complete Section 6 on back)		
<input type="checkbox"/> Meal for Group or Individual (Complete Section 7 on back)		
<input type="checkbox"/> Other (Describe above)		

5. Travel Related Expense		
<input type="checkbox"/> Lodging		
<input type="checkbox"/> Travel Advance (Max of \$75 per day)	100-1460	
<input type="checkbox"/> Meals (Complete Section 8 on back)		
<input type="checkbox"/> Mileage (Complete Section 9 on back)		
<input type="checkbox"/> Airfare		
<input type="checkbox"/> Car Rental		
<input type="checkbox"/> Taxi/Shuttle		
<input type="checkbox"/> Misc. Travel Expenses (Describe above)		
Total Payment:		\$150.00

Requestor's Signature: Carol Rice

Date: 9/28/14

Approver's Signature: Richard B. Quinn

Date: 9/29/14



# EXPENSE/PAYMENT REQUEST FORM

## 6. Award or Recognition

Reason: ☐ Recognition ☐ Retirement ☐ Length of Service ☐ Other – describe below

Names of Employees receiving award:


## 7. Meal for Group or Individual

What was the purpose for meal? ☐ Recognition ☐ Annual Team Recognition ☐ Benefit of Continuing Work

What was the location of the meal? ☒ Off Site ☐ On Site

Names of Employees that consumed the meal

NOTE: For taxable meals, cost will be divided equally among participants unless cost per participant is listed.

Paul Eldredge (Acct. # 20-150-5280-000)

Richard Currie (Acct. # 20-150-5280-000)

Tom Handley (Acct. # 20-160-5220-106)

Manny Fernandez (Acct. # 20-160-5220-110)

Anjali Lathi (Acct. # 20-160-5220-102)

## 8. Meals – Travel Related

Did this travel involve an overnight stay? ☐ Yes ☐ No

Date	Breakfast - \$20 Max	Lunch - \$25 Max	Dinner - \$40 Max	Daily Total - \$75 Max Per Day
Total Meals Expense				

## 9. Mileage

Date	From	To	Miles
Total Miles			
Rate Per Mile			
Total Mileage Expense			



*The Union City Chamber of Commerce and The City of Union City*

*2014 State of the City Address Luncheon*

*Event Sponsor Form*

*The Union City Chamber of Commerce always appreciates the support we receive from the business community. Please fill out below to sponsor this wonderful event.*

**RSVP Deadline Friday, September 19, 2014**

<input type="checkbox"/>	<b>Corporate Sponsor</b>	<b>\$400.00</b>	<b>Includes 10 Tickets</b>
The "Corporate Sponsor" includes table for ten (10), recognition as a corporate sponsor at the event. Company provided banner displayed at event. Company name on the event program. Company name & logo on table sign.			
<input type="checkbox"/>	<b>Group Sponsor</b>	<b>\$200.00</b>	<b>Includes 5 Tickets</b>
The "Group Sponsor" includes Lunch for five (5), Company provided banner displayed at event. Company name on the event program.			
<u>5</u>	<b>Individual Tickets</b>	<b>\$30.00</b>	<b>Includes one ticket per person</b>
Tickets per person include Lunch for one (1) and general seating at event.			

Company: Union Sanitary District Contact: Carol Rice  
Address: 5072 Benson Road City: Union City Zip: 94587  
Telephone: (510) 477-7503 E-mail: Carol\_rice@unionsanitary.ca.gov

**Payment Method**

Check Enclosed ☒ (Made payable to Union City Chamber of Commerce)

Visa \_\_\_\_\_ MasterCard \_\_\_\_\_ Card No: \_\_\_\_\_ Amount: \_\_\_\_\_  
Exp.: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Please fax to Union City Chamber of Commerce, (510) 952-9647  
or email to [info@unioncitychamber.com](mailto:info@unioncitychamber.com)  
3939 Smith St., Union City, CA. 94587 PH. (510) 952-9637*



## Kathy Martin

---

**From:** Rich Currie  
**Sent:** Wednesday, August 20, 2014 8:38 AM  
**To:** Kathy Martin  
**Cc:** Carol Rice  
**Subject:** FW: CASA Conference

Kathy, the account numbers listed below are correct and should be used for the CASA Conference registration.

Rich

---

**From:** Carol Rice  
**Sent:** Tuesday, August 19, 2014 3:04 PM  
**To:** Rich Currie  
**Subject:** CASA Conference

Hi Rich,

Kathy Martin used her credit card to register you, Paul, and the Board for the CASA Conference. I have included your names and account numbers. Can you please verify the accounts and forward your approval to her?

Thanks,

Richard Currie (20-150-5280-000)  
Paul Eldredge (20-150-5280-000)  
Tom Handley (20-160-5220-106)  
Anjali Lathi (20-160-5220-102)  
Michelle Powell (20-141-5280)

*Carol Rice  
Assistant to the General Manager/Board Secretary  
Union Sanitary District  
5072 Benson Road  
Union City, CA 94587  
(510) 477-7503*



**Welcome to the C A S A Online Community!**

## **CASA** **59th Annual Conference**

Ensuring Clean Water for California

**August 20-22, 2014**

**Marriott Monterey**

### **Confirmation**

CASA has received your registration for the 2014 CASA 59th Annual Conference, August **20-22, 2014** at the **Marriott Monterey, CA**. Below is the confirmation information and receipt.

Receipt amount: \$1500.00  
Date: 08/19/2014 17:46:05  
ID Code: 7964671  
Transaction ID: VSYEC0CE5254  
Payment method: Credit Card  
Credit Card type: Visa  
Delegates:  
Richard Currie  
Paul Eldredge  
Tom Handley  
Guests attending conference functions:

Thank you,  
CASA Office  
PH: (916) 446-0388

\$25 Cancellation fee on or before Monday, August 11, 2014.  
No Refund for Late Cancellations after Monday, August 11, 2014.  
Send a colleague if you cannot attend, please notify the office.

# CASA

## 59th Annual Conference

Ensuring Clean Water for California

August 20-22, 2014

Marriott Monterey

### Confirmation

CASA has received your registration for the 2014 CASA 59th Annual Conference, August 20-22, 2014 at the **Marriott Monterey, CA**. Below is the confirmation information and receipt.

Receipt amount: \$1000.00  
Date: 08/19/2014 17:52:04  
ID Code: 7964717  
Transaction ID: VPFE113A9AA  
Payment method: Credit Card  
Credit Card type: Visa  
Delegates:

Anjali Lathi

Michelle Powell

Guests attending conference functions:

Thank you,  
CASA Office  
PH: (916) 446-0388

\$25 Cancellation fee on or before Monday, August 11, 2014.

No Refund for Late Cancellations after Monday, August 11, 2014.

Send a colleague if you cannot attend, please notify the office.



# EXPENSE/PAYMENT REQUEST FORM

1. Requested by: Anjali Lathi

Date Needed:

What type of payment are you requesting?

- ☐ Prepayment A payment that is made in advance (seminars, memberships, permits, etc). Attach supporting documents.  
☒ Reimbursement A payment that is for items already purchased. Receipts must be attached for all expenses.

2. Make check payable to: Anjali Lathi

☒ Return Check to: "

☐ Mail to Address:

3. Description of Expense: CASA Conference

Event Dates: From: 8/20/14

To: 8/22/14

\* Conference rate was not available. Per Policy, maximum allowable reimbursement rate is  
 Conference Hotel Standard Room Rate + 10%. Standard Room Rate is \$259/night.  
 $\$259 \times 1.1 (10\%) = \$284^{00}$  per night. Charged rate of \$284 is reimbursible

## 4. Purpose of Expense

- ☐ Registration  
☐ Membership  
☐ Subscription  
☐ Permit  
☐ Award or Recognition (Complete Section 6 on back)  
☐ Meal for Group or Individual (Complete Section 7 on back)  
☐ Other (Describe above)

Account to Charge

Amount

RECEIVED

AUG 27 2014

ACCOUNTS PAYABLE

## 5. Travel Related Expense

- ☒ Lodging \* (see above) 20-160-5220-102 \$665.23 ✓  
☐ Travel Advance (Max of \$75 per day) 100-1460  
☒ Meals (Complete Section 8 on back) 20-160-5220-102 \$7.83 ✓  
☒ Mileage (Complete Section 9 on back) " ~~\$98.00~~ \$9.64  
☐ Airfare  
☐ Car Rental  
☐ Taxi/Shuttle  
☒ Misc. Travel Expenses (Describe above) Tips " \$ 7.00

Total Payment: \$778.06

Requestor's Signature: Careel R. Green

Date: 8/27/14

Approver's Signature: Michael B. Curran

Date: 8/27/14

774.708w



# EXPENSE/PAYMENT REQUEST FORM

## 6. Award or Recognition

Reason: ☐ Recognition ☐ Retirement ☐ Length of Service ☐ Other – describe below

Names of Employees receiving award:

## 7. Meal for Group or Individual

What was the purpose for meal? ☒ Recognition ☐ Annual Team Recognition ☐ Benefit of Continuing Work

What was the location of the meal? ☐ Off Site ☐ On Site

Names of Employees that consumed the meal

NOTE: For taxable meals, cost will be divided equally among participants unless cost per participant is listed.

## 8. Meals – Travel Related

Did this travel involve an overnight stay? ☐ Yes ☐ No

Date	Breakfast - \$20 Max	Lunch - \$25 Max	Dinner - \$40 Max	Daily Total - \$75 Max Per Day
8/22/14		\$ 7.83		
Total Meals Expense				\$ 7.83 ✓

## 9. Mileage

Date	From	To	Miles
8/20 - 8/22	Fremont	Monterey Marriott & Back	175 169
Total Miles			175 169
Rate Per Mile			.56
Total Mileage Expense			18 98.00 ✓

per map -  
for  
actual  
SW

94.64  
SW

& & & 401 & & &  
 \*\*\*\*\*THREE FLAGS CAFE\*\*\*\*\*  
 MONTEREY MARRIOTT  
 36 JEAN

TBL 22/2 3683 GST 1  
 21AUG'14 10:14AM

1 SIDE 2 EGGS 3.50  
 1 TOAST 3.50  
 Sub-Total: 7.00  
 Tax 0.53  
 10:27 TOTAL DUE: \$7.53

\*\*\*\*ROOM CHARGES ONLY PLEASE\*\*\*\*

GRATUITY 1.50 n

TOTAL 9.03 n

ROOM NUMBER 662

PRINT LAST NAME LATHI

SIGNATURE

CASA  
 lunch Fri.



Life is burritoful.

775 Cochrane Rd, Bldg C  
 Morgan Hill, CA, 95037  
 408-776-8505

Host: Stacy  
 ORDER #323

08/22/2014  
 1:33 PM  
 10225

Single Veggie (2 @2.40) 4.80  
 Single Sofritas 2.40

Subtotal 7.20  
 Tax 0.63

TAKE OUT Total 7.83  
 Visa #XXXXXX8238 7.83  
 Authoriz...  
 Balance Due 7.83

Order online at chipotle.com

## Carol Rice

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**From:** Anjali Lathi  
**Sent:** Monday, August 25, 2014 6:01 PM  
**To:** Carol Rice  
**Subject:** Fwd: Your Aug 20, 2014 - Aug 22, 2014 stay at the Monterey Marriott

Begin forwarded message:

**From:** A Lathi  
**Date:** August 24, 2014 at 7:49:06 AM PDT  
**To:** Anjali Lathi  
**Subject:** Fwd: Your Aug 20, 2014 - Aug 22, 2014 stay at the Monterey Marriott

Begin forwarded message:

**From:** Thanks for staying!  
**Date:** August 24, 2014 at 1:49:56 AM PDT  
**To:**  
**Subject:** Your Aug 20, 2014 - Aug 22, 2014 stay at the Monterey Marriott  
**Reply-To:** Thanks for staying!

Thank you for choosing the Monterey Marriott for your recent stay.

As requested, below is a billing summary or adjustment for your stay. If you have questions about your bill, please contact us at (831) 649-4234 or [MontereyCustomerInquiry@marriott.com](mailto:MontereyCustomerInquiry@marriott.com).

Make another reservation on [Marriott.com](http://Marriott.com):

Marriott Rewards members may receive this email automatically after every stay. Modify your email preferences:

### Summary of Your Stay

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**Hotel:** Monterey Marriott  
350 Calle Principal  
Monterey, California 93940  
USA  
(831) 649-4234

Guest: LATHI/ANJALI/MISS

Dates of stay: Aug 20, 2014 - Aug 22, 2014

Room number:

Guest number:

Group number:

Marriott Rewards number:

Date	Description	Reference	Charges	Credits
08/20/14	TELECOMM	NTLOWBND		0.00
08/20/14	TELECOMM	NETHIGH		0.00
08/20/14	TELECOMM	LOW STAY		0.00
08/20/14	TELECOMM	HIGHSTAY		0.00
✓ 08/20/14	ROOM	662, 1	284.00	
✓ 08/20/14	ROOM TAX	662, 1	28.40	
✓ 08/20/14	CA FEE	662, 1	0.16	
✓ 08/20/14	MTY FEE	662, 1	2.00	
✓ 08/20/14	CCFD FEE	662, 1	11.79	
08/21/14	3 FLAGS	3683	9.03	Meal
08/21/14	TELECOMM	NTLOWBND		0.00
08/21/14	TELECOMM	NETHIGH		0.00
08/21/14	TELECOMM	LOW STAY		0.00
08/21/14	TELECOMM	HIGHSTAY		0.00
08/21/14	ROOM	662, 1	284.00	
08/21/14	ROOM TAX	662, 1	28.40	
08/21/14	CA FEE	662, 1	0.16	
08/21/14	MTY FEE	662, 1	2.00	
08/21/14	CCFD FEE	662, 1	11.79	

08/22/14	BOTTLE Water	1	3.50
08/22/14	Payment - Visa		0.00
08/22/14	Payment - Visa		665.23

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Total balance	0.00 USD
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How was your stay? Share your experiences on Marriott Rewards Insiders.

Write a review = <http://www.rewards-insiders.marriott.com/community/hotel-reviews?scid=f467ffcc-cd04-4a25-af34-f3a7e0e26ab9>

Was that the best night's sleep you've ever had? How about a repeat performance at your place!

[ShopMarriott.com](http://www.shopmarriott.com/redirect.aspx?p=0802002&t=/&m=MRYCA) = <http://www.shopmarriott.com/redirect.aspx?p=0802002&t=/&m=MRYCA>

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#### Important Information

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##### \* Do Not Reply to this Email

This email is an auto-generated message. Replies to automated messages are not monitored. If you have any questions please contact the hotel directly at (831) 649-4234.

##### \* Why Have I Received this Email?

You have received this email because you requested during your stay to receive an electronic version of your bill by email.

##### \* Availability

Electronic versions of your hotel bill, available by email from our over 2,300 participating properties in the Marriott family of hotels in the USA and Canada, are emailed to you within 72 hours of check-out. These email messages reflect changes made to your bill up to 11pm on your day of departure. Any adjustments after that time may not be shown.

If you have received this email in error, please notify us:

[https://marriott.com/suggest/suggest.mi?WT\\_Ref=eResConf](https://marriott.com/suggest/suggest.mi?WT_Ref=eResConf)

Learn more about receiving your hotel bills by email:

<http://marriott.com/rewards/eFolioAbout.mi>

##### \* Authenticity of Bills

Marriott retains official records of all charges and credits to your account and will honor only those records.

##### \* Privacy

Your privacy is important to Marriott. For full details of our privacy policy, please visit our Privacy Statement:



## STANFORD UNIVERSITY

# Governor pitches policy measures at conference

**Rainy-day fund, water bond central to re-election bid**

By Lisa M. Krieger

[lkrieger@bayareanewsgroup.com](mailto:lkrieger@bayareanewsgroup.com)

STANFORD — Gov. Jerry Brown pitched his plan Monday for a water bond and a rainy-day fund at a Stanford University water conference. The two policy measures are the cornerstone of his record fourth term re-election campaign.

"We have a management challenge that is going to take money, it will take brains, it will take innovation and the magic of the marketplace to bring out the best of our creativity," Brown said at the forum called New Directions for U.S. Water Policy, co-sponsored by The Hamilton Project and Stanford Woods Institute for the Environment.

He called his water plan a "four-term effort." In his first two terms as governor, he set the table and made the proposals, he said. Another two terms are needed, he said, "to finally carry the ball across the finish line."

More than 70 percent of the western United States is in the grip of an ongoing drought that shows no signs of ending. California is experiencing its third year of historic drought conditions, with losses to the agricultural sector totaling about \$2.2 billion in 2014 alone.

The governor has asked

residents to cut back 20 percent. State water data released earlier this month showed that Californians cut water use by 11.5 percent in August, compared to the same month last year.

Brown's Proposition 1 is a \$7.5 billion water bond. Of this borrowed money, \$2.7 billion would be spent on providing new water storage, presumably dams. The rest would be used for wastewater management, storm water capture, recycling and groundwater cleaning.

His second measure, Proposition 2, would save 1.5 percent of all general fund revenue — \$1.6 billion currently — for a rainy-day reserve and to pay down debt. It would also set aside about \$1.7 billion in capital gains revenue.

If he wins in November, Brown vowed to "put water up front and center."

Brown said he aims to spend the money on improving the 100-year-old earthen levees that surround the Delta, now vulnerable to earthquake, weather extremes and rising sea levels due to climate change.

"Santa Clara County gets half its water from aqueducts through the Delta," Brown said. "If salt water intrudes, we're talking hundreds of billions of dollars overnight."

He also wants to implement better floodwater controls and improved strategies for water conservation and recycling.

In response, Ellen Hanak of the Public Policy Institute of California said she hoped part of the funds would be used to purchase water for the environment, helping save threatened species like salmon and Delta smelt.

But William Phillimore of Paramount Farming Co. cautioned that "government has to get out of the way. They take time, there is no incentive for them to make a decision. I am not an advocate for unfettered free markets, but we are all so stultified by regulations, that the system is not working properly. The government needs to let the market develop and react when it goes wrong."

Brown cautioned that "California is a highly engineered water state. The answer is not to go back to water use that was typical before the Gold Rush. We're not going back. The state has 38 million people, and the amount of water that falls is not increasing."

He cautioned that "water doesn't get solved in one office or one place. Water issues are handled by a multitude of local agencies, state rules and also the federal government. It is a complicated interplay of government jurisdictions."

"Fasten your seat belts," he said. "We will have a very exciting ride over the next four years."

Contact Lisa M. Krieger at 650-492-4098.