

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

SAN BERNARDINO  
COUNTY

Contract Number

20-401

SAP Number

## Arrowhead Regional Medical Center

Department Contract Representative  
Telephone Number

William L. Gilbert  
(909) 580-6150

Contractor  
Contractor Representative  
Telephone Number  
Contract Term  
Original Contract Amount  
Amendment Amount  
Total Contract Amount  
Cost Center

Kronos Incorporated  
Lynn Kennedy  
303-319-8586  
July 29, 2020 through July 28, 2025  
\$3,000,000  
\$  
\$3,000,000

**Briefly describe the general nature of the contract:** Approve contract with Kronos Incorporated for security systems maintenance and repair service and related equipment for the contract period of July 29, 2020 through July 28, 2025, for a total contract amount of \$3,000,000 to collect payroll data for approximately three thousand seven hundred employees.

**FOR COUNTY USE ONLY**

Approved as to Legal Form

► *Bonnie Uphold*  
Bonnie Uphold, County Counsel

Date 6-29-20

Reviewed for Contract Compliance

►

Date

Reviewed/Approved by Department

► *William L. Gilbert*  
William L. Gilbert, Director

Date

7/1/2020

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## **Arrowhead Regional Medical Center**

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William L. Gilbert  
(909) 580-6150

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**Contractor**  
**Contractor Representative**  
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**Contract Term**  
**Original Contract Amount**  
**Amendment Amount**  
**Total Contract Amount**  
**Cost Center**

Kronos Incorporated  
John O'Brien  
(978) 367-5900  
July 29, 2020-July 28, 2025  
  
\$3,000,000.00  
9186504200

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**IT IS HEREBY AGREED AS FOLLOWS:**

**WITNESSETH**

This Contract is entered into by and between the County of San Bernardino ("County"), on behalf of Arrowhead Regional Medical Center and Kronos Incorporated ("Contractor").

**WHEREAS**, County conducted a competitive process to find a contractor to provide security systems maintenance and repair services and related equipment; and

**WHEREAS**, as a result of the competitive process County selected Contractor to provide the Services and Equipment;

**NOW, THEREFORE**, the County and Contractor mutually agree to the following terms and conditions:

**A. DEFINITIONS**

**A.1.** "Acceptable Use Policy" and "AUP" are interchangeable terms referring to the Kronos policy describing prohibited uses of the Service as further described in Exhibit D.

- A.2.** "Add In(s)" mean the Kronos developed applets for Workforce Dimensions that enable limited functionality through the application programming interfaces ("APIs") of Workforce Dimensions and the associated applications of certain third-party technology providers as further described in Exhibit G.
- A.3.** "Applicable Law(s)" means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders which govern the Party's respective business.
- A.4.** "Authorized User" means any individual or entity that directly (or through another Authorized User) accesses or uses the Service with any login credentials or passwords Customer uses to access the Service.
- A.5.** "Application(s)" means those Kronos Workforce Dimensions software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Agreement.
- A.6.** "Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form. The Billing Start Date of the Monthly Service Fees for any Services ordered by County after the date of this Contract which are incremental to County's then-existing Services shall be the date the applicable Order Form is executed by Contractor and County.
- A.7.** "Boomi AtomSphere Service" means the third-party service for the creation of integrations by Customer as further described in Exhibit E, which the Customer and Customer's Authorized Users have the right to access through the Service.
- A.8.** "Boomi Software" means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Exhibit E.
- A.9.** "Claim(s)" means any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party.
- A.10.** "Confidential Information" is non-public information relating to each of Customer's and Kronos' businesses and those of Kronos' Technology suppliers that is disclosed pursuant to this Agreement and which is identified as confidential pursuant to an exemption to the California Public Records Act. Information will not be considered "Confidential Information" if the information was (i) in the public domain without any breach of this Agreement; (ii) disclosed to the Receiving Party on a non-confidential basis from a source which is lawfully in possession of such Confidential Information and, to the knowledge of the Receiving Party, is not prohibited from disclosing such Confidential Information to Receiving Party; or (iii) released in writing from confidential treatment by Delivering Party; or (iv) required to be disclosed pursuant to a subpoena, order, civil investigative demand or similar process with which the Receiving Party is legally obligated to comply.
- A.11.** "Configuration(s)" means the Customer specific settings of the parameters within the Applications(s), including pay and work rules, security settings such as log-in credentials, passwords, and private keys used to access the Service.
- A.12.** "Contract" means this agreement between County and Contractor.
- A.13.** "Controls" means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by Kronos to secure Customer Data against accidental or unlawful loss, access or disclosure consistent with the AICPA Trust Principles Criteria for security, availability, confidentiality and processing integrity (SOC 2).

- A.14.** "County Affiliate" or "End Customer Affiliate" means local government agencies, departments and Board-governed special districts, or other local governmental body or corporation, including applicable K-12 schools and community colleges where County is authorized and empowered to expend public funds for such entity located within the County's applicable jurisdictional and geographical boundaries.
- A.15.** "County Employee" means County's individual employee or contractor for whom County has paid the required fee under this Contract.
- A.16.** "County Equipment" means that the computer hardware, software, and other tangible equipment and intangible computer code employed by County in its use of the Kronos Workforce Dimensions.
- A.17.** "Customer Data" means all content Customer, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.
- A.18.** "Data Protection Law(s)" means all international, federal, state, and local laws, rules, regulations, directives and published governmental or regulatory decisions that specify data privacy, data protection or data security obligations, and which, in each case, have the force of law applicable to a Party's collection, use, processing, storage, or disclosure of Personally Identifiable Information.
- A.19.** "Designated Users" means the number of identifiable unique persons who are authorized by County at any one time to use the Workforce Dimensions.
- A.20.** "Documentation" means the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides.
- A.21.** "Educational Services" means (i) KnowledgeMap Learning Portal; (ii) KnowledgeMap Live; and (iii) ala carte educational consulting services.
- A.22.** "EMACS" means Employee Management and Compensation System for the County's Peoplesoft HCM v 9.2 application and is used to administer time, payroll and benefits.
- A.23.** "Equipment" means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form and purchased by County from Kronos or Kronos authorized resellers.
- A.24.** "Equipment Support Services" means the maintenance and support services related to Kronos' support of Equipment as further described in Attachment A-1.
- A.25.** "Feedback" means suggestions, ideas, comments, know how, techniques or other information provided to Kronos for enhancements or improvements, new features or functionality or other feedback with respect to the Service.
- A.26.** "Fees" means the charges to be paid by Customer for a particular item.
- A.27.** "Implementation Services" means those professional services provided by Kronos to set up the cloud environment and to setup the Configurations within the Applications, as set forth in an SOW.
- A.28.** "KnowledgeMap™" means the online educational portal providing access to learning resources.
- A.29.** "KnowledgeMap™ Live" means the subscription service providing instructor led training by user role on a rotating course schedule.
- A.30.** "Kronos Equipment" means time clocks, devices, or other equipment set forth on an Order Form as supplied by Kronos.
- A.31.** "Order Form" means an order form mutually agreed upon by Contractor and County setting forth the items ordered by County and to be provided by Contractor and the fees paid by County.

- A.32.** "Participating Entity(ies)" means County Affiliates or those Kronos entities that directly or indirectly control, are controlled by, or are under common control with Kronos, respectively, and sign an Order Form for the Service. "Control" (in this context) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and operating policies of the entity in respect of which the determination is being made through the ownership of the majority of its voting or equity securities, contract, voting trust or otherwise.
- A.33.** "Party(ies)" means Kronos or Customer, or both of them, as the context dictates.
- A.34.** "PEPM" means the per employee per month fee for a Customer's Authorized Users access to the Service.
- A.35.** "Personally Identifiable Information" means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable Data Protection law.
- A.36.** "Professional Services" means the professional, consulting, or training services provided by Kronos pursuant to an Order Form and which are not described in a Statement of Work.
- A.37.** "Seasonal Licenses" are limited use licenses that have the following attributes: (i) valid only for the four (4) consecutive months during the annual period identified on the Order Form; (ii) valid from the first day of the month in which they commence until the end on the last day of the month in which they expire; and (iii) will be effective automatically each year during the Term, subject to termination and non-renewal as provided in the Agreement.
- A.38.** "Term" means the Contract period as set forth in Section D.
- A.39.** "Services" means security systems maintenance and repair services, including without limitation (i) accessibility to the commercially available version of the Workforce Dimensions SaaS Applications by means of access to the password protected customer area of a Kronos hosted environment, and all such services, items and offerings accessed by County therein, and (ii) the equipment hereunder, if any.
- A.40.** "Service" means the Kronos supply of the commercially available version of the Workforce Dimensions SaaS Applications in Kronos' hosted environment and the services described in the Agreement related thereto.
- A.41.** "Statement of Work" and "SOW" are interchangeable terms referring to a written description of the Implementation Services.
- A.42.** "Success Plan(s)" means the services provided by Kronos to support and maintain the Service as described in Exhibit C.
- A.43.** "Supplier" means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Services.
- A.44.** "Technology" means the intellectual property of Kronos within the Service, including but not limited to the Applications.
- A.45.** "Temporary personnel" means a person who is hired from an agency to perform temporary duties, sometimes on short notice.

## **B. CONTRACTOR RESPONSIBILITIES**

The following are outlined based on the current initial Order Form and SOW:

- B.1.** Workforce Dimensions Applications licensed with the Initial Order Form will meet the following objectives:

- B.1.1.** Provide comprehensive scheduling of employee times, including cost center assignments.
- B.1.2.** Provide County Employees the ability to access schedule and provide availability to request time on and off.
- B.1.3.** Have the ability to notify County Employees of immediate and future staffing needs; tracks licenses and certifications.
- B.1.4.** Records County Employee times and calculates or applies complex time, attendance, and pay policies utilizing different employee categories, pay structures, and other state and federal regulatory requirements. This includes temporary personnel.
- B.1.5.** Tracks County Employee movement from cost center to cost center on a real-time basis.
- B.1.6.** Can be configured to interface with EMACS to provide and retrieve time, compensation, and County Employee data for the processing of payroll and other functions.
- B.1.7.** Provides tools for managers to create custom reports necessary for measuring productivity and controlling costs.
- B.1.8.** Provides tools that allow managers to alert and pre-approve employees seeking to fill additional work opportunities.
- B.1.9.** Reports expense data
- B.1.10.** License Management System integrated in which licenses and certification can be managed (reports, etc)

**B.2. B.2 Technical Specifications:**

- B.2.1.** Support server platform: Windows 2016
- B.2.2.** Support Platforms: Windows 7 and 10
- B.2.3.** EMACS System: Currently system is running PeopleSoft applications HCM 9.2 and PeopleTools 8.56.07
- B.2.4.** Interface with current Electronic Health Records System, Meditech Hospital Information System.
- B.2.5.** Interface with newly acquired Electronic Health Records EPIC system, to include nurse staffing acuity scheduling.
- B.2.6.** Data collection through Employee Identification Badge having radio frequency identification (Approximately 3,500).
- B.2.7.** Replace existing thirty-six (36) ADP model 4500 time clocks with Kronos Intouch DX, HID PROX, and TOUCH ID PLUS OPTION FOR INTOUCH DX.

**B.3. B.3 Functionality:**

- B.3.1.** Service capable of bi-directional interface to Electronic Health Records System.
- B.3.2.** Supports current browser versions and supportive applications with the ability to apply version and security updates.
- B.3.3.** Ability to have all time and attendance functions performed within onsite servers, with the additional capability of performing scheduled back-up to the cloud.

- B.3.4.** Ability to create custom reports that allow respective managers to monitor productivity and personnel costs through the Time & Attendance Software, a third-party solution provided by the proposer, or an alternative.

**B.4. Deliverables:**

- B.4.1.** County Employee ID's are fully functional at designated time clocks and door access points.
- B.4.2.** Time and attendance data is correctly calculated per the specified guidelines, and able to upload seamlessly to EMACS, and able to export data via CSV or Delimited file(s) for use in labor productivity reports.
- B.4.3.** Designated users are fully-trained and capable of creating and modifying employee work/vacation/holiday schedules.
- B.4.4.** Managers can alert employees of additional work opportunities via text, email or other system.
- B.4.5.** Manager can review and approve their response in similar fashion.
- B.4.6.** Ability to deny access if employee is missing current licensure.

**B.5. Workforce Dimensions Service Agreement:**

See **Attachment A** for Workforce Dimensions Service Agreement, as attached hereto.

**C. GENERAL CONTRACT REQUIREMENTS**

**C.1. Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

**C.2. Contract Amendments**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

**C.3. Contract Assignability**

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

**C.4. Contract Exclusivity**

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

**C.5. Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

**C.6. Background Checks for Contractor Personnel**

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) are aware and comply with the drug free workplace

policy which prohibits the use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Professional Services onsite. If requested by the County, Contractor shall provide provide an attestation signed by an authorized representative of Contractor that background checks have been completed and that personnel providing the Professional Services meet the requirements set forth herein. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period prior to the date of the project. Contractor shall not staff a Professional Services resource onsite at County's facility if such person has a negative result from the background screening. To the extent not prohibited by law, all results from the background screening shall remain confidentialCounty shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

**C.7. Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

**C.8. Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.

**C.9. Compliance with County Policy**

In performing the Professional Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Professional Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies are listed in the following sections of the Agreement:

- i. C.10 Confidentiality
- ii. C.14 Damage to County Property
- iii. C.15 Disbarment
- iv. C.16 Drug and Alcohol Free Workplace
- v. C.18 Employment Discrimination
- vi. C. 24 Licenses
- vii. C.33 Relationships
- viii. C.34 Release of Information
- ix. C.34 Former County Admin Officials
- x. or such other on-site safety policies communicated to Kronos in advance.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

**C.10. Confidentiality of Participants**

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not



identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

**C.11. Primary Point of Contact**

Contractor will designate an individual to serve as the primary and secondary point of contact for an implementation project. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written notice to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

**C.12. RESERVED**

**C.13. County Representative**

The Hospital Director or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

**C.14. Damage to County Property**

Contractor shall be responsible for all damages to tangible property of County caused by the willful misconduct or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

**C.15. Debarment and Suspension**

Contractor certifies that to the best of its knowledge neither it nor its principals or subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

**C.16. Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County Equipment:

**C.16.1.** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

**C.16.2.** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.

**C.16.3.** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County Equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for material breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above and if Contractor fails to cure such material breach within the thirty day cure period as set forth herein.

**C.17. Duration of Terms**

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

**C.18. Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with all applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**C.19. RESERVED**

**C.20. Improper Influence**

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

**C.21. Improper Consideration**

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report

shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**C.22. Informal Dispute Resolution**

In the event a party determines that an obligation is not met in accordance with the Contract, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use best reasonable efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**C.23. Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**C.24. Licenses, Permits and/or Certifications**

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

**C.25.** If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County in responding to the Request for Proposal (RFP), the County will notify Contractor in writing. "Material misstatements" in response to an RFP are: (1) those terms which affect price, quantity, quality or delivery; and (2) those terms which are clearly identified by the invitation for bids and which must be complied with at the risk of bid rejection for non-responsiveness. Within five (5) business days after receipt of County's notice, the parties shall set a time and place or method, as soon as reasonably practicable but in no event longer than fifteen (15) business days from the date of County's notice, to meet and confer in good faith regarding the County's determination. If the parties fail to reach an agreement at the meet and confer, the County may immediately terminate this Contract and pursue any available legal remedies.

**C.26. Mutual Covenants**

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**C.27. Nondisclosure**

Subject to applicable law, both parties shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information of the disclosing party that is either: (1) provided by or otherwise made available to the disclosing party in connection with this Contract; or, (2) acquired, obtained, or learned by the disclosing party in the performance of this Contract. For purposes of this provision, confidential

information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

**C.28. Notice of Delays**

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within one business day, give notice thereof, including all relevant information with respect thereto, to the other party.

**C.29. RESERVED.**

**C.30. Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the County of San Bernardino requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

**C.30.1.** Such governmental body does not have and will not have in force any other contract for like purchases.

**C.30.2.** Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

**C.31. RESERVED**

**C.32. Records**

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

**C.33. Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**C.34. Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

**C.35. Representation of the County**

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

**C.36. Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

**C.37. Subcontracting**

Contractor shall obtain County's written consent, which County may withhold in its discretion, acting reasonably before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Professional Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- C.37.1.** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- C.37.2.** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- C.37.3.** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

**C.38. Subpoena**

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree, except as prohibited by law, to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

**C.39. RESERVED**

**C.40. RESERVED**

**C.41. Venue**

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

**C.42. Conflict of Interest**

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**C.43. Former County Administrative Officials**

To the extent Contractor is aware, Contractor agrees to make a reasonable effort to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor for this Contract. The information provided includes a list of former County administrative officials directly involved in the performance of the initial implementation services project agreed to with the execution of this Contract who terminated County employment within the last five years and who are now officers, principals, employees directly involved in the implementation of the project. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**C.44. Disclosure of Criminal and Civil Procedures**

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or

offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

**C.45. RESERVED**

**C.46. RESERVED**

**C.47. Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that to the best of its knowledge at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

**C.48. RESERVED**

**C.49. RESERVED**

**D. TERM OF CONTRACT**

This Contract is effective as of July 29, 2020 and expires July 28, 2025 but may be terminated earlier in accordance with provisions of this Contract. The Contract may be renewed by mutual consent of the parties pursuant to Article 2.2 of the Workforce Dimensions Agreement attached as Attachment A.

**E. RESERVED**

**F. FISCAL PROVISIONS**

**F.1.** The maximum amount of payment under this Contract shall not exceed three million dollars (US\$3,000,000.00). The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, excluding travel and per diem.

**F.2.** Contractor will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. County shall make payment to Contractor within sixty (60) days after receipt of invoice or the resolution of any billing good faith dispute.

**F.3.** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall

promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

- F.4.** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. Upon request, the County shall provide a tax exemption certificate, if applicable. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.5.** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.6.** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- F.7.** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

**G. INDEMNIFICATION, INSURANCE REQUIREMENTS AND LIMITATION OF LIABILITY**

**G.1. Indemnification**

Contractor will indemnify, defend, and hold harmless County and its officers, employees, agents and volunteers, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement of any United States patent, copyright, trademark or trade secret (Intellectual Property Rights) by any goods or services. Contractor shall have no obligation to indemnify or defend County to the extent the alleged infringement is based on: (a) a modification of the Services not performed or approved by Contractor; (b) use of the Services other than in accordance with the Documentation for such Service or as authorized by the Agreement; or (c) use of the Services in conjunction with any data, equipment, service or software not provided by Supplier, where the Services would not otherwise itself be infringing or the subject of the claim; or (d) use of the Services by County other than in accordance with the terms of the Agreement, where the Services would not otherwise infringe, misappropriate or otherwise become the subject of the Claim. If a credible claim is made or threatened, including without limitation the filing of a lawsuit against County, or County receives a demand or notice claiming actual or potential infringement or misappropriation of any Intellectual Property Rights, County will use reasonable efforts to notify Contractor promptly of such lawsuit, claim or election. However, County's failure to provide or delay in providing such notice will relieve Contractor of its obligations only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such lawsuit or claim. County will give Contractor sole control of the defense (with counsel reasonably acceptable to County) and settlement of such claim; provided that Contractor may not settle the claim or suit absent the written consent of County unless such settlement (a) includes a release of all claims pending against County, (b) contains no admission of liability or wrongdoing by County, and (c) imposes no obligations upon County other than an obligation to stop using the goods or services that are the subject of the claim. In the event that Contractor fails to or elects



not to defend County against any claim for which County is entitled to indemnity by Contractor, then Contractor shall reimburse County for all reasonable attorneys' fees and expenses within thirty (30) days from date of invoice or debit memo from County.

If, in Contractor's opinion, any goods or services become, or are likely to become, the subject of a claim of infringement of Intellectual Property Rights, Contractor may, at its option: (i) procure for County the right to continue using the goods or receiving the services; (ii) replace or modify the goods or services to be non-infringing, without incurring a material diminution in performance or function; or (iii) if neither of the foregoing is feasible, in the reasonable commercial judgment of Contractor, County shall cease use of the goods or services upon written notice from Contractor, and Contractor shall provide County with a pro-rata refund of the unearned fees paid by County to Contractor for such goods or services.

**G.2. Additional Insured**

All policies as set forth and required herein, except for Worker's Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy.

**G.3. Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive such rights of subrogation against the County, its officers, and employees. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. Contractor hereby waives all rights of subrogation for the (add) General Liability, Worker's Compensation, Errors and Omissions, and Professional Liability and Cyber Liability coverage against the County.

**G.4 Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**G.5 Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

**G.6 Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, with the exception of non-payment of premiums which shall only require ten (10) days written notice to the department and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within thirty (30) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies.

**G.7 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

**G.8 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract.

**G.9 Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County.

**G.10 The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.**

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

**G.10.1** or a state-approved, self-insurance program in an amount and form to meet Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance all applicable requirements of the Labor Code of the State of California, including Employer's Liability with statutory limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

**G.10.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**G.10.3** Automobile Liability Insurance – Primary insurance coverage for negligent act of Vendor shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**G.10.4 Umbrella Liability Insurance** – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability of Kronos not covered by the primary policy. The coverage shall also apply to automobile liability.

**G.10.5 Professional Liability** – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits  
or

**Errors and Omissions Liability Insurance** – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits  
or

**Directors and Officers Insurance** coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

**G.10.6 Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

#### **G.11 LIMITATION OF LIABILITY**

EXCEPT FOR CLAIMS ARISING FROM KRONOS' GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR G.1, AND KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS AGREEMENT, THE TOTAL AGGREGATE LIABILITY OF KRONOS TO CUSTOMER IN CONNECTION WITH THE AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER NOT TO EXCEED AN AMOUNT EQUAL TO THE GREATER OF (i) TWO TIMES THE TOTAL NET PAYMENTS RECEIVED OR PAYABLE BY KRONOS FOR THE SERVICES IN THE FIRST TWELVE (12) MONTH PERIOD FOLLOWING THE SIGNED OF THIS AGREEMENT; OR (ii) TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (US\$2,500,000).

TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

NOTWITHSTANDING THE ABOVE, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY ARISING FROM A BREACH OF THE CONFIDENTIALITY, PRIVACY OR SECURITY OBLIGATIONS EXCEED 5 MILLION DOLLARS (US\$5,000,000.00) ("Super Cap") IN AGGREGATE.

**H. RIGHT TO MONITOR AND AUDIT**

**H.1.** The County, State and Federal government shall have the right to review and audit all billing and invoicing and supporting documentation records , under this Contract. Contractor shall give reasonable cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements agreed to between the parties as set forth herein.

**H.2.** All such billing and invoicing and supporting documentation records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

**I. RESERVED**

**J. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino  
Arrowhead Regional Medical Center  
400 N. Pepper Avenue  
Colton, CA 92324

Kronos Incorporated  
900 Chelmsford Street  
Lowell, Massachusetts 01851

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**K. ORDER OF PRECEDENCE**

If there is a conflict between the documents comprising the Contract, the following order of precedence shall apply:

**K.1.** Applicable federal and State laws;

**K.2.** The terms and conditions in the body of this Contract;

**K.3.** The terms and conditions of a Change Order;

**K.4.** The terms of the Attachments, Exhibits, and/or other documents attached to this Contract;


**L. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive

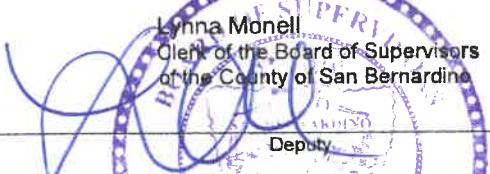
agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

**WITNESS WHEREOF**, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO


►   
Curt Hagman, Chairman, Board of Supervisors

Dated: JUL 28 2020  
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By   
Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino  
Deputy

KRONOS INCORPORATED

(Print or type name of corporation, company, contractor, etc.)

By ►   
(Authorized signature - Order Processing Analyst)  
Jun 30 2020 12:42 PM

Name SCOTT GIAGRANDE  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

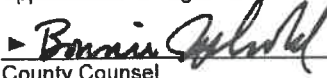
Dated: \_\_\_\_\_

Address \_\_\_\_\_

COSIGN

**FOR COUNTY USE ONLY**

Approved as to Legal Form

►   
County Counsel

Date 6-30-20

Reviewed for Contract Compliance

► \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

► 

Date 7/1/2020

**Attachment A**

**Workforce Dimensions™ Agreement**

**William L. Gilbert**

This Attachment A, Workforce Dimensions™ Agreement (the “Agreement”) is an attachment to the Contract between the County of San Bernardino and Kronos Incorporated, and governs the provision of Kronos’ Workforce Dimensions software as a service and other related offerings by Kronos Incorporated and its Participating Entities (hereinafter collectively, “Kronos”) to County and its Participating Entities (hereinafter collectively, “Customer”). Capitalized terms not defined within the text of the Agreement are defined in the Contract.

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

**Exhibit A: General Terms and Conditions**

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

Attachment A-2: Professional and Educational Services Policies

Attachment A-3: Service Level Agreement

**Exhibit B: Workforce Dimensions Cloud Guidelines**

**Exhibit C: Success Plans**

Attachment C-1: Support Policies

**Exhibit D: Acceptable Use Policy (AUP)**

**Exhibit E: AtomSphere Service and Boomi Software**

Attachment E-1: Boomi Flow Down Provisions

**Exhibit F: Add-Ins**

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

When Participating Entities enter into an Order Form, they are deemed to be “Customer” for purposes of this Agreement for that Order Form. Similarly, the Kronos entity that enters into an Order Form is deemed to be “Kronos” for purposes of this Agreement for that Order Form.

## **Exhibit A: General Terms and Conditions**

### **Article 1. Order Forms**

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

- a. The Application(s) included in the Service, and the other offerings being ordered by Customer

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

1.2 The following Fees may appear on an Order Form:

- a. PEPM Fees for use of the Service, including PEPM Fees for Seasonal Licenses
- b. Success Plan Fees for Guided and Signature Plans
- c. Implementation Services Fees (The Order Form will note if Implementation Services Fees are included in PEPM Fees.)
- d. Equipment Purchase Fees
- e. Equipment Rental Fees
- f. KnowledgeMap™ Live Fees

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

Article 2. Billing - See Section F of the Contract.

2.2 At the expiration of the Initial Term, and at the expiration of each Renewal Term, the Service may be renewed for additional one (1) year terms on the anniversary date of its commencement date ("Renewal Date") by mutual written agreement of the parties. For each Renewal Term, Kronos may increase the PEPM Fees and the KnowledgeMap Live Fees by no more than four percent (4%) over the previous year's PEPM Fees and KnowledgeMap Live Fees, for the same Applications and the same licensed quantity. Kronos will reflect these increased PEPM Fees and KnowledgeMap Live Fees in the applicable invoice for each Renewal Term. For renewals based on the Annual in Advance Billing Frequency, Kronos will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

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

Article 3. Implementation Services, Professional Services and Educational Services

3.1 Implementation Services are described in a SOW that the Parties will sign or reference on a signed Order Form. These SOWs are subject to this Agreement. Implementation Services are invoiced monthly as delivered, except if otherwise indicated on an Order Form. Each Party will perform their respective obligations as outlined in a signed SOW.

3.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, Kronos may also configure the Applications. Kronos will configure the Applications based on

Customer's instructions and direction. Customer is solely responsible for ensuring that the Configurations comply with Applicable Law.

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

3.4 KnowledgeMap™ is included in the PEPM Fees. If included on an Order Form, Kronos will also provide a subscription to KnowledgeMap™ Live. The KnowledgeMap Live 1st Year Training will expire one (1) year from purchase. KnowledgeMap Live 5 Pack entitles Customer to add up to five (5) additional named users in a KnowledgeMap Live Subscription. KnowledgeMap Live Subscription and KnowledgeMap Live 5 Pack are coterminous with the Service and will renew with the Service, unless Customer decides not to renew. The KnowledgeMap Live Subscription Fees will be invoiced at the commencement of each year during the Term. Customer is permitted to assign one (1) employee to each user account (or seat) included in Customer's KnowledgeMap Live subscription. The number of permitted seats will appear on the Order Form. Passwords and accounts cannot be shared by multiple users. Customer will designate one (1) named user account to act as a training administrator.

3.5 Kronos may also provide ala carte educational consulting services as Implementation Services or Professional Services as described in an SOW or Order Form.

3.6 The Kronos policies set forth in Attachment A-2 shall apply to all Implementation Services and Professional Services provided by Kronos. In the event of a conflict between the Professional Services Policies and this Agreement, the terms of this Agreement shall prevail.

#### Article 4. Service Level Agreement

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

4.2 Chronic Failures. In the event the Service fails to meet 99.75% Availability for any three (3) months in a rolling twelve (12) month period during the Term of this Agreement, then Customer may terminate the Agreement without penalty upon written notice to Kronos. Kronos agrees to promptly refund to Customer any Monthly Service Fees prepaid by Customer under this Agreement for Services that were to be provided after the effective date of termination, in addition to any other remedies available to Customer under the terms of this Agreement. Customer shall have up to three (3) months after the end of such third month to exercise its rights to terminate under this section.

#### Article 5. Data, Confidentiality, Security and Privacy

##### Section 5.1 Data

5.1.1 Customer owns Customer Data. Customer is solely responsible for Customer Data, including ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Customer is solely responsible for any Claims that may arise out of or relating to Customer Data. Unless approved in advance by the Customer's Chief Information Security Officer ("CISO"), the physical location of Kronos' data center where Customer Data is stored shall be within the Continental United States ("CONUS").

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



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

## Section 5.2. Security and Privacy

### 5.2.1 Kronos will maintain the Controls throughout the Term.

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

5.2.3 Consent to Use Sub-processors. Customer agrees that Kronos may use sub-processors to fulfill its contractual obligations under the Agreement. The list of sub-processors that are currently engaged by Kronos to carry out processing activities on Customer Data on behalf of Customer can be found at: [www.kronos.com/workforce-dimensions/agreement/subprocessors](http://www.kronos.com/workforce-dimensions/agreement/subprocessors)

Customer hereby authorizes the engagement as sub-processors of all entities set forth in such list. Customer further generally authorizes the engagement as sub-processors of any other third parties engaged by Kronos for such purposes. The foregoing authorizations will constitute Customer's prior written consent to the subcontracting by Kronos of the processing of Customer Data if such consent is required under Applicable Laws.

At least 30 days before any new sub-processor will carry out processing activities on Customer Data on behalf of Customer, Kronos will update the applicable website and provide Customer with a mechanism to obtain notice of that update. Customer may object to any such new sub-processor by terminating the Agreement upon written notice to Kronos, such written notice to be provided within 60 days of being informed of the engagement of the sub-processor. This termination right is Customer's sole and exclusive remedy if Customer objects to any new sub-processor.

### 5.2.4 Sub-processor Obligations. When engaging any sub-processor:

- a. Kronos will enter into a written agreement with the sub-processor;
- b. Kronos will endeavor to ensure that the subprocessor provides sufficient guarantees to implement appropriate technical and organisational measures to meet the requirements of applicable Data Protection Laws; and,

Kronos will remain responsible for the performance of the sub-processor's data protection obligations pursuant to such written agreement and the requirements of applicable Data Protection Laws.

### 5.2.5 Certification. Kronos shall certify:

- a. the sufficiency of its security standards, tools, technologies and procedures in providing the Services under this Agreement, and, if requested by Customer, provide a copy of its Statement on Standards for Attestation Engagements (SSAE) 18 Service Organization Control (SOC) 2 Type II audit results;

### 5.2.6 Safeguards

Kronos shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards in accordance with Section 5.1.1 above at all times during the term of this Agreement to secure Customer Data from Data Breach (as defined below), protect Customer Data and the Application from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt and/or compromise Customer's access to Customer Data.

## Section 5.3 High-Availability and Redundancy

Kronos shall have or shall procure through a Supplier, a high-availability and a redundant environment for the

storage of Customer Data that is consistent with a leading provider of data center services. The data center shall be certified against an industry standard framework such as ISO27001. Kronos shall make the data center's annual SOC 2 Type II report available to Customer upon request.

#### Section 5.4 Verification

5.4.1 Upon request, Kronos shall provide a Statement on Standards for Attestation Engagements 18 (SSAE18) Service Organization Controls Report (SOC) 1 and SOC 2 Type I and Type II Reports on an annual basis. Based on the report(s), its findings and remediation planned or accomplished shall be provided to CISO in terms of an attestation letter or in the form of a management response.

5.4.2 Kronos shall also provide due diligence reports to Customer on a mutually agreed upon frequency. Such reports may include without limitation to performance, information security, network, and other pertinent SaaS data related to the Agreement, at no cost to Customer.

#### Section 5.5 Customer Data and Security Breach

5.6.1 No Customer Data shall be destroyed or deleted by Kronos other than for normal operation or maintenance of the Application during the Contract Term without prior written notice to and written approval by CISO.

5.6.2 When Customer Data is destroyed or disposed, it shall be accomplished using commercially available tools that conform to prevailing data sanitization standards. Upon request, Kronos shall provide a written confirmation that Customer Data has been deleted to the CISO within a commercially reasonable time period after the Customer Data has been destroyed/disposed with.

5.6.3 Kronos employees will access Customer Data from the location from which such employees work. While principally supporting the Application and performing the Services, remote access to Customer Data from outside the CONUS may occur from the following locations, said locations include the USA, United Kingdom, Canada, India, and Australia.

#### Section 5.7 Data Breach

5.7.1 Upon discovery of any unauthorized access of Customer Data ("Data Breach"), Kronos shall notify the CISO by the fastest means available and in writing to the County Notices contact within twenty-four (24) hours after Kronos confirms a Data Breach has occurred. At a minimum, the notification shall include:

- a. the nature of the Data Breach including where possible, the categories and approximate number of data subjects concerned, and the categories and approximate number of Customer Data records concerned;
- b. communicate the name and contact details of the data protection officer or other contact point where more information can be obtained;
- c. describe the likely consequences of the personal Data Breach; and
- d. describe the measures taken or proposed to be taken by Kronos to address the personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

5.7.2 Kronos shall conduct an investigation of the Data Breach. Upon request, Kronos shall share, subject to Kronos' obligations of confidentiality to its other customers or proprietary interests, the root cause analysis of the investigation with the CISO. If required by law, County and/or its authorized agents shall have the right to

participate in the investigation as it relates to the Customer Data. Service Provider shall cooperate fully with County, its agents and law enforcement in accordance with this Contract.

5.7.3 Upon advance written request and on an annual basis or after a Data Breach, Kronos agrees that the County or its designated representative shall have the right to conduct a security review of the Services upon request by County. Any such audits shall be limited to receipt of a robust due diligence package containing documents describing Kronos' security practices, access to knowledgeable personnel to answer questions about the controls in place, examination of the results of the annual AICPA SOC 1 and SOC 2 Type II audit conducted by an independent third party, and a visit to Kronos corporate headquarters at a mutually agreeable date and time. For the avoidance of doubt, in no event shall Customer or its designees be permitted to access Kronos systems, network servers, scan summaries or activities logs. Upon request, Kronos will provide Customer with an executive summary of its most recent penetration test.

#### Article 6. Warranty

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

#### Article 7. License

##### Section 7.1 Technology License

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

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

#### Article 8. Scope and Authority

8.1 Participating Entities may order the Service and other related offerings from Kronos by signing an Order Form contemporaneously with this Agreement, or in the future by signing an Order Form specifically

referencing this Agreement. Only the Parties entering into a particular Order Form will be responsible under this Agreement for the items on that Order Form.

8.2 By signing an Order Form, each person signing such Order Form represents that they are lawfully able to enter into contracts and are authorized to sign the Order Form and bind the Participating Entity on whose behalf they are signing the Order Form. The person signing this Agreement on behalf of Kronos and on behalf of Customer represent that they are lawfully able to enter into contracts and are authorized to sign this Agreement and bind the entity on whose behalf they are entering into this Agreement. By signing an Order Form, each person signing such Order Form represents that they are lawfully able to enter into contracts and are authorized to sign the Order Form and bind the Participating Entity on whose behalf they are signing the Order Form.

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

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

#### **Article 9. Suspension**

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

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

#### **Article 10 Disaster Recovery and Business Continuity**

10.1 In the event of disaster or catastrophic failure that results in significant loss of Customer Data for all Customers, Kronos will provide notification by email based on Customers notification subscription settings on

their Kronos Trust Site. Kronos shall provide such notification within twenty-four (24) hours after Kronos reasonably believes there has been such a disaster or catastrophic failure. In the notification, Kronos shall inform Customer of the scale and quantity of Customer Data loss, Kronos' action plan to recover Customer Data to achieve the RPO, and Kronos' corrective action plan to prevent future Customer Data loss in the event of a disaster.

10.2 Kronos shall meet the RPO and RTO objectives declared in the Workforce Dimensions Cloud Guidelines.

10.3 Kronos shall conduct an investigation of the disaster or catastrophic failure and shall share an executive summary of the report of the investigation with Customer. Within five (5) business days of Kronos' receipt of the final report, Kronos will provide Customer with a written remediation plan of the high level steps to be taken by Kronos.

## Article 10. Termination

### Section 10.1. Types of Termination

10.1.1 Non-renewal. Either Party may terminate the Service upon at least sixty (60) days prior written notice to be effective at the expiration of the then current Term. Customer may terminate Seasonal Licenses upon at least sixty (60) days prior written notice to be effective at the expiration of the then current Term.

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

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

10.1.4 Termination due to Lack of Appropriations. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the County for the performance of this Agreement. If sufficient appropriations and authorization are not made by the County, this Agreement shall terminate upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

### Section 10.2 Effects of Termination

If the Agreement is terminated for any reason:

- a. All Fees will be paid by Customer for amounts owed through the effective date of termination.
- b. Any Fees paid by Customer for the Service not rendered prior to the effective date of termination will be credited against Customer's account, with any remaining amounts refunded to Customer within thirty (30) days of the effective date of termination.
- c. Customer's right to use the Service will end as of the effective date of termination. Notwithstanding such termination, Customer will have thirty (30) days after the effective date of termination to access the Service for purposes of retrieving Customer Data through tools provided by Kronos that will enable Customer to so extract Customer Data. If Customer requires a longer period of access to the Service after termination to retrieve Customer Data, such access will be subject to additional Fees. Extended access and use of the Services will be subject to the terms of this Agreement.

- d. Kronos will delete Customer Data after Customer's rights to access the Service and retrieve Customer Data have ended. Kronos will delete Customer Data in a series of steps and in accordance with Kronos' standard business practices for destruction of Customer Data and system backups. Final deletion of Customer Data will be completed when the last backup that contained Customer Data is overwritten.
- e. Kronos and Customer will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Agreement.
- f. Provisions in this Agreement which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination of the Agreement will so survive.

#### Article 13. Changes

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

#### Article 14. Feedback

From time to time, Customer may provide Feedback. Kronos has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants Kronos a royalty-free, fully paid up, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, distribute, transmit, display, perform, create derivative works of and otherwise fully exercise and commercially exploit the Feedback for any purpose in connection with Kronos' business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Agreement limits Kronos' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

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

The following terms and conditions supplement the terms and conditions of Exhibit A and govern the purchase and sale, or rental of, Equipment and the related support services, as applicable.

## **Section 1. Purchase and Sale of Equipment**

When indicated on the applicable Order Form as Purchased Equipment, Kronos sells to Customer, and Customer purchases from Kronos, the Equipment listed on that Order Form for the price stated on that Order Form.

## **Section 2. Equipment Rentals**

The following terms apply only to Equipment Customer rents from Kronos when indicated on the applicable Order Form as Rental Equipment:

**2.1 Rental Term and Warranty.** The term of the Equipment rental and the warranty for such Equipment shall run co-terminously with the Term of the Service.

**2.2 Insurance.** Customer is an authorized self-insured public entity for purposes of General Liability and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

**2.3 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 as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

**2.4 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 2.4.

**2.5 Equipment Support.** Kronos shall provide to Customer the Depot Exchange Equipment Support Services described below, the Fees for which are included in the Rental Fees for the Equipment.

**2.6 Return of Equipment.** Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Agreement, for any reason, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment. 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.

### **Section 3. Warranty**

Kronos warrants that all Kronos Equipment 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 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. 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 Documentation; or
- c. malfunctions resulting from the use of badges or supplies not approved by Kronos.

### **Section 4. 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. If Customer has downloaded firmware for the Kronos Equipment to which Customer is not entitled, Customer shall be responsible to pay Kronos for such updated firmware in accordance with Kronos' then-current support policies for a period no longer than the date the firmware was downloaded through the date of the determination.

### **Section 5. Export**

Customer acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment 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 may be used by Customer. Customer's obligations hereunder shall survive the termination or expiration of this Agreement.

### **Section 6. Equipment Support**

Kronos shall provide Equipment Support Services for Customer's Kronos Equipment (referred to below as "Product(s)") if such Equipment Support Services are specified on an Order Form.

#### **6.2 Payment**

Customer agrees to pay the Equipment Support Services Fees 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), must be covered by



the Equipment Support Services. Customer agrees that if Customer purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Customer under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

6.3 Kronos will invoice Customer for the annual Equipment Support Charges each year in advance of the Renewal Date. Customer will pay Kronos within thirty (30) days of receipt of invoice. In addition to the annual Equipment Support Charges, Customer agrees to pay all applicable taxes, however designated, on the Agreement, and on services rendered, including state and local taxes or excise taxes based on gross revenue, and any taxes or amount in lieu thereof paid or payable by Kronos, exclusive of taxes based upon net income. In addition, each Party shall be responsible for their respective freight charges as provided in Section 6 below. 6.4. Depot Support Service

6.4.1 Upon the failure of an installed Product, Customer shall notify Kronos of such failure and Kronos will provide remote support in an attempt to resolve the problem. Those failures determined by Kronos to be Product 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 Product if Customer is to return the failed Product to Kronos, as reasonably determined by Kronos. Customer must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product 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 which may be accessed at: <http://www.kronos.com/Support/SupportServicesPolicies.htm> ("Support Policies"), as attached hereto as Attachment C-1 for reference.

6.4.2 Depot Exchange: Kronos will provide a replacement for the failed Product at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Product will be shipped the same day, for next business day delivery to Customer's location as further described in the Support Policies. REPLACEMENT PRODUCT(S) MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Product 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 Product from Kronos, shall package the defective Product in the materials provided by Kronos, with the RMA supplied and promptly return failed Products directly to Kronos using the carrier specified by Kronos.

6.4.3 Depot Repair: It is Customer's obligation to purchase and retain, at Customer's location and at Customer's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Customer to replace failed Products at all Customer locations. Upon failure of an installed Product, Customer shall install a Spare Product to replace the failed Product. Customer shall also specify the address to which the repaired Product should be return shipped. Customer shall then return the failed Product, with the required RMA, to the applicable Kronos Depot Repair Center. Upon receipt of the failed Product, Kronos shall repair the failed Product and ship it, within ten (10) business days after receipt, to Customer. Kronos shall ship the repaired Product by regular surface transportation to Customer.

6.4.4 Device Software Updates Only: Customer shall be entitled to receive:

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

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

6.6 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.

6.7 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.

#### 6.8 Support Exclusions

6.8.1 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.

6.8.2 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 Equipment 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 Equipment Support Services plan with Kronos.

#### **6.9 Delivery**

All domestic shipments are FOB Destination to/from Customer and Kronos with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination.

#### **6.10 Warranty**

Kronos warrants that all repairs performed under the Agreement shall be performed in a professional and competent manner. ALL OTHER WARRANTIES FOR THE EQUIPMENT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.

#### **6.11 Default, Suspension, and Termination**

6.11.1 Under the Depot Exchange Support option, Kronos may suspend Equipment Support Services if Customer does not ship failed Product to Kronos within ten (10) business days of receipt of the Replacement Product. Kronos will restore Equipment Support Services upon return of such failed Product or upon payment at the then-prevailing Kronos list price for such unreturned failed Product. Equipment Support Services shall not be extended or affected by any such suspension.

6.11.2 Customer may terminate Equipment Support Services if Kronos is in default under the Agreement, and such default is not corrected within thirty (30) days after written notice. Kronos may terminate Equipment Support Services if Customer defaults under this or any other agreement with Kronos, and such default is not corrected within thirty (30) days after written notice. In addition, this Agreement 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.

#### **6.12 Limitation of Remedies**

The exclusive remedy of Customer and sole liability of Kronos shall be replacement of the repaired Product.

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## **Policies – On Premise | Software Services – On Premise | Equipment Services |** **Policies - Workforce Central SaaS | Software Services – Cloud Hosting**

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### **Equipment Services**

#### **Depot Exchange Service**

The premium hardware service option: Kronos ships a replacement unit on an advance exchange basis by next-business day delivery where available if request is received prior to 2:00 p.m. Kronos recommends that Depot Exchange customers procure the appropriate number of spare units to maintain adequate coverage while a unit is out of service.

#### **How it works:**

- You contact Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.
- You install your spare unit from your inventory.
- Kronos ships a replacement unit on an advance exchange basis by next-business day delivery where available if request is received prior to 2:00 p.m.
- Upon receipt of replacement, you send the terminal needing service back to the Kronos Equipment Services Center.

#### **Availability:**

Currently ONLY available in Australia, Canada, China, EMEA, Mexico, New Zealand, and United States.

#### **Conditions:**

- Batching (defined as 2 or more terminals) voids the turn-around time.
- You will be charged Kronos' current time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.
- Equipment Support Services do NOT include the replacement of consumables. In addition, Depot Support Services do 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.
- Terminals are warranted for 90 days from date of shipment.

*This service includes access to equipment service releases / firmware updates available on the Kronos Community. Please sign up for Alert Groups in the Kronos Community to get notified of the release of new service releases.*

## Depot Repair Service

This service was designed for those who keep their own inventory of spare terminals and options.

### How it works:

- You contact Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.
- You install your spare unit from your inventory.
- You send the terminal needing service back to the Kronos Equipment Services Center.
- Upon receipt of product, Kronos shall repair the product within ten (10) business days and return to you by regular surface transportation.

### Availability:

NOT available in China.

### Conditions:

- Batching (defined as 2 or more terminals) voids the turn-around time.
- You will be charged Kronos' current time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.
- Equipment Support Services do NOT include the replacement of consumables. In addition, Depot Support Services do 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.
- Repairs are warranted for 90 days from date of shipment.

*This service includes access to equipment service releases / firmware updates available on the Kronos Community. Please sign up for Alert Groups in the Kronos Community to get notified of the release of new service releases.*

## Device Software Maintenance

Device Software Maintenance is designed for those Kronos customers who choose to manage time clock repair themselves and just want access to device software updates. This service option lets you download equipment service releases from the Kronos Community to ensure that your time clock is always up to date with:

- The latest security enhancements
- Communication protocols

- Fixes and terminal software feature updates
- Compatibility updates with Kronos software or other terminals

Device Software Maintenance is included with Depot Exchange and Depot Repair.

**Device Software Maintenance does NOT include any repair or exchange services.**

### **How it works:**

- Go to the Kronos Community at <https://community.kronos.com>.
- Register or log in to the Kronos Community. An email address and Kronos Solution ID are required to register for access to the Kronos Community.
- Go to the Topics menu and choose "Data Collection" to access the equipment service releases.

### **Availability:**

The Device Software Maintenance offering is available worldwide.

NOT available for the 100, 400, 500, Century and Cyber series terminals

*This service includes access to equipment service releases / firmware updates available on the Kronos Community. Please sign up for Alert Groups in the Kronos Community to get notified of the release of new service releases.*

### **Per-event Repair Service**

Per-event rates apply to customers without an equipment support agreement. The Kronos Equipment Services center will attempt to repair any repairable defective item within 15 business days after receipt at the current Per-event pricing. The product will be returned by regular surface transportation.

### **How it works:**

- You contact Kronos to get a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.
- You install your spare unit from your inventory
- You send the terminal needing service back to the Kronos Equipment Services Center.
- Upon receipt of product, Kronos shall repair the product within fifteen (15) business days and return to the customer by regular surface transportation.

### **Conditions:**

- Batching (defined as 2 or more terminals) voids the turn-around time.
- You will be charged Kronos' current time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.
- Equipment Support Services do NOT include the replacement of consumables. In addition, Depot Support Services do 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.
- Repairs are warranted for 90 days from date of shipment.

*This service does **NOT** include access to equipment service releases / firmware updates in the Kronos Community.*

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## Attachment A-2:

### Professional and Educational Services Engagement Policies

The following are the policies under which Kronos will operate during the course of a customer engagement:

1. Kronos will provide the Customer with a Statement of Work (also known as the SOW) that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by the Customer. This Statement of Work is an estimate; the Collaborate Phase of the engagement will be used to determine whether modifications to the project scope or project budget are required.
2. The Statement of Work is valid for one year from the date of signature.
3. Any changes to the project scope and/or project duration will be reflected through the generation of a Kronos Change Order, which is initiated by the Kronos Project Manager and approved and signed by the Customer.
  - a. These changes could be due to an increase or change in project scope or deliverables, insufficient customer resources or time commitment, changes to customer project schedule, or technical limitations.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Statement of Work. In instances where specialized resources are requested, but not contained within the original Statement of Work, the quoted rate will be established as Kronos' current rate for such requested services.

5. Kronos personnel working at the Customer site shall have access to necessary infrastructure (servers, network, etc.).
6. In instances where Kronos personnel are working remotely access will be granted through the use of industry standard tools (VPN, DTS, GoToMyPC, PCAnywhere, etc.).
7. From the effective date of this Agreement and during the period Kronos provides services and for a period of one (1) year thereafter, neither party will, directly or indirectly, solicit, induce, or cause any employee or independent contractor employed by the other party and who has had direct contact with the other party in rendering or receiving the services provided pursuant to this Agreement, to leave the present employment of the other party or become employed by the other party. This restriction shall not apply to any employee or independent contractor that independently responds to an indirect solicitation (such as general newspaper advertisements, employment agency referrals and Internet postings) not targeting such employee or independent contractor.
8. If not hosted by Kronos Cloud Services, all required system administration, maintenance, backups, tuning, etc., is the responsibility of the Customer.
9. Customer Data: To perform the implementation and to provide support after completion, Kronos may need to access and retain information regarding your employees and business organization. Kronos will take all reasonable steps to limit and safeguard the security of this information.
10. Scheduled Work Policies:
  - a. Professional Services
    - i. Professional Services work will be conducted during normal business hours, 8:00AM – 5:00PM, Monday through Friday.
    - ii. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed after hours, on holidays, or on weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Customers will be charged as follows:
      1. All Professional Services will be scheduled and billed in 4 hour increments with a minimum charge of 4 hours.
        - a. After Hours
          - i. All scheduled work will be billed at 1.5 times the contract rate by role
          - ii. After Hours is considered 5:00PM-8:00AM, Monday through Friday
        - b. Weekends
          - i. All scheduled work will be billed at 2.0 times the contract rate by role
          - ii. Weekends are considered 5:00PM Friday through 8:00AM Monday
        - c. Holiday
          - i. All scheduled work will be billed at 2.0 times the contract rate by role
          - ii. Holidays are any Kronos recognized Holidays, which include: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day.



b. Education Services

- i. All training course delivery scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Customers will be charged as follows:
  1. After Hours
    - a. There will be a 1.5 times premium per student for public courses or per class for private day rates
    - b. After Hours is considered 5:00PM-8:00AM, Monday through Friday
  2. Weekends
    - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
    - b. Weekends are considered 5:00PM Friday through 8:00AM Monday
  3. Holidays
    - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
    - b. Holidays are any Kronos recognized Holidays, which include: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day.

11. Travel Policies

- a. Customer is responsible for airfare, lodging and related travel expenses for onsite consultants.
- b. Customer is responsible for travel costs for Customer employees attending training at a Kronos location.
- c. Customer is responsible for travel and related costs for a Kronos trainer providing instruction at the Customer location.
- d. If a Kronos employee is required on-site per the customer request, a minimum of 8 hours will be billed per day.
- e. All travel time (portal to portal) will be billed at the current contract rate by role. Travel time above two hours in any one direction will be billed at the current contract rate by role. Travel and ancillary costs reimbursed to Kronos will not exceed Two Thousand Five Hundred (\$2,500) per site visit or Ten Thousand Dollars (\$10,000.00) over the term of the agreement without written approval as set forth in the Order Form.

12. Cancellation Policies: Kronos requires notification for the cancellation or rescheduling of Kronos personnel as well as the cancellation of Instructor led classes. Customer will be charged for failure to meet the following notification requirements:

- a. Professional Services:
  - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
  - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
  - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- b. Education Services:
  - i. For any PUBLIC course held in the traditional classroom or in the virtual classroom, attendees must cancel at least five business days before the class start date to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.
  - ii. For any PRIVATE course held at a customer site, in the traditional classroom, or in the virtual classroom: attendees must cancel at least ten business days before the class start date to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.
  - iii. Kronos reserves the right to cancel classes up to five business days before the scheduled start date for public courses held in a Kronos Traditional Classroom (KTC) and up to two

business days before the scheduled start date for public courses held in a Kronos Virtual Classroom (KVC) due to lack of enrollment or any other unforeseen circumstances and will refund Customer all related pre-paid fees related to the canceled class.

- iv. Educational Services purchases are valid for one (1) year from the date of signature. Educational Service purchased but not used within this one year period will expire.

c. Cancellation Policy Example:

- i. Work is schedule for Wednesday, 1p-5p (4 hours)
- ii. If customer cancels on:
  - 1. Friday – no penalty
  - 2. Monday – 50% of planned charges are invoiced (2 hours)
  - 3. Tuesday – 100% of planned charged are invoiced (4 hours)
- iii. Cancellation Policy Example with a Holiday:
  - i. Work is schedule for Wednesday, 1p-5p (4 hours)
  - ii. If customer cancels on:
    - 1. Thursday – no penalty
    - 2. Friday – 50% of planned charges are invoiced (2 hours)
    - 3. Monday – holiday, doesn't count as "business day"
    - 4. Tuesday – 100% of planned charged are invoiced (4 hours)

13. Additional Education Services Policies

- a. All Instructor-led Educational Services classes will be held at a Kronos facility, or via the Kronos Virtual Classroom (if offered in that modality), unless Customer has purchased onsite location training.

## Attachment A-3: Workforce Dimensions Service Level Agreement

**Service Level Agreement:** Kronos offers the Service Level Agreement and associated SLA Credits as described in this WFD SLA. This WFD SLA does not apply to the Boomi development environment described in the Exhibit - AtomSphere Service and Boomi Software.

**Availability:** The production environment of the Service will maintain 99.75% Availability. SLA Credits become available starting the month after the Customer's written "go-live" confirmation is provided to Kronos.

**SLA Credits:** If, due to an Outage, the Service does not maintain 99.75% Availability, Customer is entitled to a credit to Customer's monthly invoice for the affected month, such credit to be equivalent to 3% of Customer's monthly PEPM Fees for every 1% of Availability below 99.7%, but in no event to exceed 100% of Customer's monthly PEPM Fees.

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

**"Excluded Event"** means any event that causes unavailability to the Service due to (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 its Suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Customer; (d) any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events; (g) expected downtime during the Maintenance Periods described below; (h) any suspension of the Service in accordance with the terms of the Agreement; (i) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (j) using an Application in a manner inconsistent with the Documentation for such Application.

**"Maintenance Period"** means scheduled maintenance periods established by Kronos to maintain and update the Services, when downtime may be necessary. Customer chooses maintenance window based on location of data center selected on Order Form. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously supports the production environment on a 24x7 basis to reduce disruptions. The current weekly Maintenance Period options are:

- US/Canada Eastern Time from Thursday, 12:00 AM - 4:00 AM
- Australian Eastern Time from Thursday, 12:00 AM - 4:00 AM or
- Central European Time Thursday, 2:00 AM - 6:00 AM.

**Service Credit Calculation:** An Outage will be deemed to commence when the Service is unavailable to Customer and ends when Kronos has restored availability to the Service.

**Availability Percentage:** (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100 and then divided by Monthly Minutes (MM), but not including Excluded Events.

**"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 Service is unavailable as the result of an Outage.

**Reporting and Claims Process**

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

Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating SLA Credits.

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer's utilization of the Service 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 Service 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.

## Exhibit B: Workforce Dimensions Cloud Guidelines

### Solution Definition

<b>Tenants included</b>	One standard production tenant One partial copy non-production tenant limited to 18 months of data
<b>Additional tenants</b>	Additional partial copy tenants available for purchase on an annual basis

### Connectivity

<b>Connectivity to service</b>	The customer's end users connect to Workforce Dimensions applications via a secure SSL/TLS connection over the internet. Cooperation between Kronos and the customer's IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for the customer's internet connection or ISP relationships.  Kronos-related internet traffic cannot be filtered by proxy or caching devices on the County network. Workforce Dimensions supports vanity URL, utilizing a single domain.
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### Connectivity

<b>SFTP accounts</b>	The Kronos cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punches, drivers, and more — to and from the Kronos cloud in support of Kronos® integrations.  The service includes two SFTP managed service accounts that customers may use to automate their integrations with the Kronos cloud. All managed service account logins use public key authentication to secure files in transit. Transfers of files up to 100MB are supported. Customers may also purchase additional managed service accounts.  User accounts for individual (named) customer login are not supported by the SFTP service.
<b>MPLS/Site-to-cloud Interconnect (optional)</b>	Customers choosing to utilize MPLS are required to use connections offered by Google Cloud service providers and will pay the service provider directly. Kronos will assist in provisioning of the link.
<b>Server-initiated device (optional)</b>	Supported per Documentation (includes two VPN connections)

### Usage

<b>Secure file transfer following limits:</b>	Integration with Kronos Workforce Dimensions using the Kronos Cloud SFTP service is subject to the following limits: <ul style="list-style-type: none"> <li>- 20 active concurrent sessions per SFTP account</li> <li>- File size transferred per SFTP session not to exceed 100MB</li> <li>- Storage quota of 10GB per SFTP account</li> </ul>
<b>Key performance indicators (KPIs)</b>	KPIs can be used to monitor and control business targets and thresholds. Many KPIs are customer to track common workforce metrics such as overtime and labor costs. The customer has the option to build additional organization-specific KPIs using the KPI Builder. The number of active KPIs used with Workforce Dimensions applications will be limited to 200 per customer. Additional KPIs may be purchased.

### Policies

<b>Data refresh tenant once per week</b>	Customer can request that a copy of production tenant be moved to its non-production up to the limit of data allowable in the non-production tenant.
<b>Kronos application automatically updates</b>	Maintenance updates will be automatically applied as needed. New software releases will be applied according to the release schedule published during the first month of each quarter.

**Customer termination** Upon customer termination, Kronos will provide access to the service for an additional 30 days so the support customer may extract data.

Security compliance	A SOC 2 Type 1 report will be published during the first quarter after general availability release. A SOC 2 Type 2 report will be published 12 months after general availability release.
Disaster recovery	Recovery time objective: 24 hours Recovery point objective: 4 hours
Encryption	Data encryption in transit and at rest is included.
Third parties	The customer may contract with a third party to configure and/or implement Workforce Dimensions applications. The customer will be responsible for creating users in the system for the third party to access the application and for maintaining the permissions those users have within the application. Dedicated service and support accounts can be accessed only by Kronos personnel or contractors employed by Kronos.
Legal Hold	Kronos will comply with applicable laws and regulations when responding to subpoenas and inquiries from government agencies after consultation with customers when applicable and possible. In the event that a customer is subject to a subpoena, litigation discovery request, or government inquiry directed at customer data or documents that are solely within Kronos' control, Kronos will, at the customer's request, make commercially reasonable efforts to provide assistance to the extent that it is technically feasible. The customer will reimburse Kronos for the costs that Kronos incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, Kronos will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, Kronos will not entertain requests to store or host legacy or archived customer data or documents for these purposes. Kronos periodically reviews all matters subject to legal hold, including data that is being retained.

## Exhibit C: Success Plans

### Section 1. Success Plans

#### 1.1 Kronos offers the following Success Plans for Workforce Dimensions:

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

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

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

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

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

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

Attachment C-1: Support Policies:

**Attachment C-1**  
**Workforce Dimensions Support Policies**

1. Kronos provides support services for all customer environments (Production and User Acceptance Testing (UAT)) running the Workforce Dimensions Applications. Upgrades to these environments are included in all Success plans. Configuration of new features may be subject to additional cost depending on complexity.
- 2. Support Exclusions**
3. Support services do not include service to the Applications resulting from, or associated with:
4. Failure to use the Applications in accordance with Kronos' published specifications; or
5. Customer's end user computer or operating system malfunctions, including browser and internet connection; or
6. Services required for application programs or conversions from products or software not supplied by Kronos.
- 7. Service Coverage Period**
8. Kronos provides support for the Workforce Dimensions Infrastructure 24 hours a day, seven days a week,
9. 365 days a year.
10. Support coverage hours for the Application for use, usability and "how to" questions depend on the Workforce Dimensions Success Plan purchased with the Service.

11. Workforce 12. Dimensions Success 13. Plans	14. Community Success 15. And Guided 16. Success	17. Signature Success
18. Local time Zone 19. Support	20. 8:00 AM – 8:00 PM 21. Monday to Friday* 22. 2 hour response to 23. Support cases	24. 24 Hour x 7 support 25. 1 hour response to support cases

26. Excluding Kronos holidays

**27. Priority Based Support**

28. Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first. Kronos Global Support has set up the following guidelines to assess the priority of each service request:

**29. High Priority:** A critical customer issue with no available workaround where the Applications cannot be accessed, or where the Applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll, such as:  
Cloud outage



Unable to sign-off Time Cards

Totals are not accurate

30. Unable to collect punches from terminals

31. Unable to access a critical function within the Applications such as scheduling

**32. Medium Priority:** A serious customer issue which impacts ability to utilize the application effectively such as:

33. Intermittent or inconsistent functionality results or data accuracy - accrual balances not matching pay codes but balances are accurate

34. Data display inaccuracies or inconsistencies across multiple tasks

35. Application performance is inconsistent or fluctuates

**36. Low Priority:** Non-critical problem generally entailing use and usability issues or "how to" questions such as:

37. How do I set up a holiday pay rule?

38. How do I run a report?

### 39. Response Time

40. Response time shall mean the number of hours from the time the case priority is set by the Kronos Support Center until a Kronos technical representative contacts the customer to begin service. Kronos utilizes a priority based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

41. Success Plans	42. Community	43. Guided	44. Signature
45. Priority	46.	47.	48.
49. High	50. 2 h	51. 2 h	52. 1 h
53. Medium	54. 4 h	55. 4 h	56. 4 h
57. Low	58. 8 h	59. 8 h	60. 8 h

### 61. Critical Outages

62. Kronos will provide continuous effort on all high priority events through either bug identification, the development of a workaround, or problem resolution. If this effort goes beyond normal business hours, the case may be passed to the after-hours team. On-going continuous effort may also be dependent on the customer's ability to provide a resource to work with Kronos during this period.

### 63. Technical Escalation

64. Kronos' case resolution process is a team based approach structured around specific features within the Application suite and staffed by Kronos Support Engineers covering the full spectrum of skill sets and technical expertise. The teams are empowered to

dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

65. The teams are also integrated with the Development Engineering and Cloud Operations staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations.

66. For situations that contain multiple cases, an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

**67. Management Escalation**

68. Customers may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Kronos Community at <https://community.kronos.com/s/article/ka361000000ACDuAAO/KB13193>.

**69. Remote Support**

70. A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

**71. Kronos Community**

72. The Community helps you make the most of your Kronos solution by putting tools and resources at your fingertips in a collaborative, intuitive online space — a space that makes opening a case, accessing support, and viewing all your account information easier than ever. Streamlined and searchable, the information you need is just a click away.

## Exhibit D: Acceptable Use Policy

This Acceptable Use Policy (this "Policy") describes prohibited uses of the Service. The examples described in this Policy are not exhaustive. Kronos may modify this Policy at any time upon written notice to Customer of a revised version. By using the Service, Customer agrees to the latest version of this Policy. If Customer violates the Policy or authorizes or helps others to do so, Kronos may suspend use of the Service until the violation is corrected, or terminate the Agreement for cause in accordance with the terms of the Agreement.

### No Illegal, Harmful, or Offensive Use or Content

Customer may not use, or encourage, promote, facilitate or instruct others to use, the Service for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. Prohibited activities or content include:

- **Illegal Activities.** Any illegal activities, including advertising, transmitting, or otherwise making available gambling sites or services or disseminating, promoting or facilitating child pornography.
- **Harmful or Fraudulent Activities.** Activities that may be harmful to others, Kronos' operations or reputation, including offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), or engaging in other deceptive practices.
- **Infringing Content.** Content that infringes or misappropriates the intellectual property or proprietary rights of others.
- **Offensive Content.** Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.
- **Harmful Content.** Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

### No Security Violations

Customer may not use the Service to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a "System"). Prohibited activities include:

- **Unauthorized Access.** Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System. Customer will not perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan on any System.
- **Interception.** Monitoring of data or traffic on a System without permission.
- **Falsification of Origin.** Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. This prohibition does not include the use of aliases or anonymous remailers.

- **No Use of Robots.** Customer will not use any tool designed to automatically emulate the actions of a human user (e.g., robots)

Attachment E-1: Boomi Flow Down Provisions:

Attachment E-1

Boomi AtomSphere Service And Boomi Software Flow Downs

The following provisions are required "flow-down" provisions from our authorized reseller agreement with Boomi, Inc. for the AtomSphere Service and Boomi Software. These terms and conditions apply to all integrations to and from the Kronos Services using the AtomSphere Service and are in addition to the terms of the Agreement for all such integrations. For purposes of these provisions, "Customer" is referred to as "End-Customer" throughout these provisions.

(1) Restrictions. Except and only to the extent that the exclusions and limits of this Restrictions Section are prohibited by applicable law, End-Customer may not reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Boomi Software, or any part thereof. In addition, End-Customer may not (i) modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Boomi Software or any part thereof, (ii) resell, sublicense or distribute the Boomi Software, (iii) provide, make available to, or permit use of the AtomSphere Service or the Boomi Software, in whole or in part, by any third party (except as expressly set forth herein) without Dell's prior written consent, (iv) use the AtomSphere Service or the Boomi Software to create or enhance a competitive offering or for any other purpose which is competitive to Dell, or (v) perform or fail to perform any act which would result in a misappropriation or infringement of Dell's intellectual property rights in the AtomSphere Service or the Boomi Software. End-Customer understands and agrees that the AtomSphere Service or the Boomi Software may work in conjunction with third party products and End-Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products.

(2) Proprietary Rights. End-Customer understands and agrees that (i) the AtomSphere Service or the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Dell, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the Products, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant End-Customer any rights to Dell's trademarks or service marks, and (v) Dell reserves any and all rights, implied or otherwise, which are not expressly granted to End-Customer in this Agreement.

(3) Support. All technical support related to the AtomSphere Services and Boomi Software shall be provided by Kronos. End-Customer shall have no right to contact Dell for technical support for the AtomSphere Services and Boomi Software.

(4) Protected Data. For purposes of this Section, "Protected Data" means any information or data that is provided by End-Customer to Dell during this Agreement that alone or together with any other information relates to an identified or identifiable natural person or data considered to be personal data as defined under Privacy Laws, and "Privacy Laws" means any applicable law, statute, directive or regulation regarding privacy, data protection, information security obligations and/or the processing of Protected Data.

Except as permitted herein or to the extent required by Privacy Laws or legal process, Dell shall not disclose Protected Data to any third party for any reason. Dell shall implement appropriate technical and organizational measures to prevent unauthorized disclosure of or access to Protected Data by third parties, and shall only store and process Protected Data as required to

fulfill its obligations under this Agreement and any applicable Orders. Dell shall make reasonable efforts to comply with End-Customer's written instructions with respect to the Protected Data; however, Dell shall have no liability to End-Customer for any breach of this Section resulting from Dell's acts or omissions in accordance with any such instructions. Dell shall promptly notify End-Customer of any disclosure of or access to the Protected Data by a third party in breach of this Section and shall cooperate with End-Customer to reasonably remediate the effects of such disclosure or access. End-Customer hereby (i) represents that it has the right to send the Protected Data to Dell, (ii) consents for Dell to store and use the Protected Data worldwide for the sole purpose of performing its obligations under this Agreement and any applicable Orders, (iii) agrees that the Protected Data may be accessed and used by Dell and its Representatives worldwide as may be needed to support Dell's standard business operations, and (iv) agrees that Protected Data consisting of End-Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Dell's third party service providers as part of Dell's services improvement processes.

(5) Infringement. Dell will at its own expense defend or settle any claim, suit, action, or proceeding brought against End-Customer by a third party to the extent it is based on an allegation that the Boomi Software directly infringes any patent, copyright, trademark, or other proprietary right enforceable in the country in which the Boomi Software is delivered to End-Customer, or misappropriates a trade secret in such country (a "Claim"). Additionally, Dell shall pay any judgments finally awarded against End-Customer under a Claim or any amounts assessed against End-Customer in any settlements of a Claim, and reasonable administrative costs or expenses, including without limitation reasonable attorneys' fees, necessarily incurred by End-Customer in responding to the Claim. Dell's obligations under this Section are conditioned upon End-Customer (i) giving prompt written notice of the Claim to Dell; (ii) permitting Dell to retain sole control of the investigation, defense or settlement of the Claim, and (iii) providing Dell with such cooperation and assistance as Dell may reasonably request from time to time in connection with the investigation, defense or settlement of the Claim. Dell shall have no obligation hereunder to defend End-Customer against any Claim (a) resulting from use of the Boomi Software other than as authorized in this Agreement, (b) resulting from a modification of the Boomi Software other than by Dell, or (c) based on End-Customer's use of the Boomi Software after Dell recommends discontinuation because of possible or actual infringement, (d) based on End-Customer's use of a superseded or altered release of Boomi Software if the infringement would have been avoided by use of a current or unaltered release of the Boomi Software made available to End-Customer, or (e) to the extent the Claim arises from or is based on the use of the Boomi Software with other products, services, or data not supplied by Dell if the infringement would not have occurred but for such use. If End-Customer's use of the Boomi Software is enjoined as a result of a Claim, Dell shall, at its expense and option either (1) obtain for End-Customer the right to continue using the Boomi Software, (2) replace the Boomi Software with a functionally equivalent non-infringing product, (3) modify the Boomi Software so that it is non-infringing, or (4) terminate the License for the infringing Boomi Software and discontinue End-Customer's right to access and use the infringing Boomi Software and refund the unused pro-rated portion of any fees pre-paid by End-Customer for the AtomSphere Service affected by the removal of the infringing Boomi Software. This Section states the entire liability of Dell, and End-Customer's sole and exclusive remedy, with respect to a Claim.

(6) Warranty. THERE ARE NO WARRANTIES OR REMEDIES PROVIDED TO CUSTOMER BY DELL HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR

IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. DELL DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.

(9) High Risk Disclaimer. END-CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK OR HAZARDOUS ENVIRONMENT, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR ANY OTHER APPLICATION WHERE THE FAILURE OR MALFUNCTION OF ANY PRODUCT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, SEVERE PROPERTY DAMAGE OR SEVERE ENVIRONMENTAL HARM (A "HIGH RISK ENVIRONMENT"). ACCORDINGLY, (I) END-CUSTOMER SHOULD NOT USE THE PRODUCTS IN A HIGH RISK ENVIRONMENT, (II) ANY USE OF THE PRODUCTS BY CUSTOMER IN A HIGH RISK ENVIRONMENT IS AT CUSTOMERS OWN RISK, (III) DELL, ITS AFFILIATES AND SUPPLIERS SHALL NOT BE LIABLE TO END-CUSTOMER IN ANY WAY FOR USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT, AND (IV) DELL MAKES NO WARRANTIES OR ASSURANCES, EXPRESS OR IMPLIED, REGARDING USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT.

(7) Export. End-Customer acknowledges that the Boomi Software and AtomSphere Service are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other applicable foreign agencies (the "Export Controls") and agrees to abide by the Export Controls. End-Customer hereby agrees to use the Boomi Software and AtomSphere Service in accordance with the Export Controls, and shall not export, re-export, sell, lease or otherwise transfer the Boomi Software and AtomSphere Service or any copy, portion or direct product of the foregoing in violation of the Export Controls. End-Customer is solely responsible for obtaining all necessary licenses or authorizations relating to the export, re-export, sale, lease or transfer of the Boomi Software and AtomSphere Service and for ensuring compliance with the requirements of such licenses or authorizations. End-Customer hereby (i) represents that End-Customer is not an entity or person to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls; and (ii) agrees that it shall not export, re-export or otherwise transfer the Boomi Software and AtomSphere Service to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons. End-Customer shall, at its expense, defend Dell and its Affiliates from any third party claim or action arising out of any inaccurate representation made by End-Customer regarding the existence of an export license, End-Customer's failure to provide information to Dell to obtain an export license or any allegation made against Dell due to End-Customer's violation or alleged violation of the Export Controls (an "Export Claim") and shall pay any judgments or settlements reached in connection with the Export Claim as well as Dell's costs of responding to the Export Claim.

(8) Hosted Environment.

(a) Data. End-Customer may store data on the systems to which it is provided access in connection with its use of the AtomSphere Service (the "Hosted Environment"). Dell may periodically make back-up copies of End-Customer data, however such back-ups are not



intended to replace End-Customer's obligation to maintain regular data backups or redundant data archives. End-Customer is solely responsible for collecting, inputting and updating all End-Customer data stored in the Hosted Environment, and for ensuring that it does not (i) knowingly create and store data that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) use the Hosted environment for purposes that would reasonably be seen as obscene, defamatory, harassing, offensive or malicious. If the Order states where End-Customer data is to be stored, Dell will not move the data from the specified region without notifying End-Customer, except if Dell is required to do so by law or legal process. Dell shall have the right to delete all End-Customer data stored in connection with the use of the AtomSphere Service thirty (30) days following any termination of this Agreement or any license to Boomi Software granted hereunder.

End-Customer represents and warrants that it has obtained all rights, permissions and consents necessary to use and transfer all End-Customer and/or third party data within and outside of the country in which End-Customer or the applicable End-Customer Affiliate is located (including providing adequate disclosures and obtaining legally sufficient consents from End-Customer's employees, End-Customers, agents, and contractors). If End-Customer transmits data to a third-party website or other provider that is linked to or made accessible by the AtomSphere Service or Boomi Software, End-Customer will be deemed to have given its consent to Dell enabling such transmission and Dell shall have no liability to End-Customer in connection with any claims by a third party in connection with such transmission.

(b) Conduct. In connection with the use of the Hosted Environment and the AtomSphere Service, End-Customer may not (i) attempt to use or gain unauthorized access to Dell's or to any third-party's networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials; (iv) attempt to probe, scan or test the vulnerability of the Boomi Software, the Hosted Environment, or a system, account or network of Dell or any of Dell's End-Customers or suppliers; (v) interfere or attempt to interfere with service to any user, host or network; (vi) engage in fraudulent, offensive or illegal activity of any nature or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third-party; (vii) transmit unsolicited bulk or commercial messages; (viii) intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (ix) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Boomi Software (except for tools with safety and security functions); or (x) restrict, inhibit, interfere with or otherwise disrupt or cause a performance degradation to any Dell (or Dell supplier) facilities used to provide the Hosted Environment. End-Customer shall cooperate with Dell's reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.

(c) Suspension. Dell may suspend End-Customer's use of Boomi Software and the AtomSphere Service (a) if so required by law enforcement or legal process, (b) in the event of an imminent security risk to Dell or its End-Customers, or (c) if continued use would subject Dell to material liability. Dell shall make commercially reasonable efforts under the circumstances to provide as much prior notice as possible to End-Customer of any such suspension.

(9) Limitation of Liability. EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "RESTRICTIONS", "CONFIDENTIAL INFORMATION" SECTIONS OF THIS AGREEMENT, (B) AMOUNTS CONTAINED IN JUDGMENTS OR SETTLEMENTS WHICH DELL IS LIABLE TO PAY ON BEHALF OF END-CUSTOMER UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND CUSTOMER IS LIABLE TO PAY ON BEHALF OF DELL UNDER THE "CONDUCT" OR "EXPORT" SECTIONS OF THIS AGREEMENT, OR (C) ANY LIABILITY TO

THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, IN NO EVENT SHALL END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE.

EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "LICENSE," "RESTRICTIONS," OR "CONFIDENTIAL INFORMATION" SECTIONS OF THIS AGREEMENT, OR ANY OTHER VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (B) DELL'S EXPRESS OBLIGATIONS UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND END-CUSTOMER'S EXPRESS OBLIGATIONS UNDER THE "CONDUCT" AND "EXPORT" SECTIONS OF THIS AGREEMENT; (C) A PREVAILING PARTY'S LEGAL FEES, (; OR (D) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES AND SUPPLIERS UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL NOT EXCEED (Y) THE GREATER OF THE FEES PAID AND/OR OWED (AS APPLICABLE) BY END-CUSTOMER TO PARTNER FOR THE SERVICE DURING THE TWELVE (12) MONTHS PRECEDING THE BREACH THAT ARE THE SUBJECT OF THE BREACH OR FIVE HUNDRED DOLLARS (\$500.00). THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL PROVIDING PRODUCTS AND SERVICES TO END-CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

Dell's Affiliates and suppliers shall be beneficiaries of this "Limitation of Liability" Section; otherwise, no third party beneficiaries exist under this Agreement. Dell expressly excludes any and all liability to any third party.

## **Exhibit F: Workforce Dimensions™ Add-Ins**

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

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

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

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

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

### No Network Abuse

Customer may not make network connections to any users, hosts, or networks unless Customer has permission to communicate with them. Prohibited activities include:

- **Monitoring or Crawling.** Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
- **Denial of Service (DoS).** Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.
- **Intentional Interference.** Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
- **Operation of Certain Network Services.** Operating network services like open proxies, open mail relays, or open recursive domain name servers.
- **Avoiding System Restrictions.** Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

### No E-Mail or Other Message Abuse

Customer will not use the Service to distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like "spam"), including commercial advertising and informational announcements. Customer will not alter or obscure mail headers or assume a sender's identity without the sender's explicit permission. Customer will not collect replies to messages sent from another internet service provider if those messages violate this Policy or the acceptable use policy of that provider.

#### Monitoring and Enforcement

Kronos reserves the right, but does not assume the obligation, to investigate any violation of this Policy or misuse of the Service. Kronos may:

- investigate violations of this Policy or misuse of the Service; or
- remove, disable access to, or modify any content or resource that violates this Policy.

Kronos may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Kronos' reporting may include disclosing appropriate customer information. Kronos also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

#### Reporting of Violations of this Policy

If Customer becomes aware of any violation of this Policy, Customer will immediately notify Kronos and provide Kronos with assistance, as requested, to stop or remedy the violation.

## Attachment A



## ORDER FORM

Quote#: Q-41812  
 Expires: 7/31/2020  
 Sales Executive: Lynn Paddock Kennedy

Order Type: Quote  
 Date: 6/25/2020

Bill To Contact: Jason Shaw

Ship To Contact: Jason Shaw

Bill To: ARROWHEAD REGIONAL MEDICAL  
 CTR 400 N PEPPER  
 COLTON, CA 92324 USA

Ship To: ARROWHEAD REGIONAL MEDICAL  
 CTR 400 N PEPPER  
 COLTON, CA 92324 USA

Ship to Phone:  
 Contact: Jason Shaw  
 Email: shawjas@armc.sbcounty.gov

Currency: USD  
 Customer PO Number:  
 Solution ID: 6046484  
 Initial Term: 60 months  
 Billing Start Date: 90 Days from Execution of  
 Order Form  
 Data Center Location: USA

Shipping Terms: Shipping Point  
 Ship Method:  
 Freight Term: Prepay & Add  
 Renewal Term: 12 months  
 Payment Term: Net 60 Days

## Order Notes:

Before including any health related questions in Kronos Workforce Dimensions™ Timekeeping please consult with your legal counsel to ensure you are compliant with applicable privacy laws and regulations.

## SaaS Services

Billing Frequency: Monthly in Advance

Product Name	Quantity	PEPM	Monthly Price
WORKFORCE DIMENSIONS TIMEKEEPING HOURLY	3,300	USD 5.29	USD 17,457.00
WORKFORCE DIMENSIONS TIMEKEEPING SALARIED	987	USD 2.65	USD 2,615.55
WORKFORCE DIMENSIONS ABSENCE	3,300	USD 1.33	USD 4,389.00
WORKFORCE DIMENSIONS ADVANCED SCHEDULING	4,287	USD 1.33	USD 5,701.71

Product Name	Quantity	PEPM	Monthly Price
WORKFORCE DIMENSIONS HEALTHCARE ANALYTICS	4,287	USD 2.38	USD 10,203.06
<b>Total Price</b>			<b>USD 40,366.32</b>

## Equipment Purchase

Billing Frequency: Invoiced Upon signature of the Order form

Item	Quantity	Unit Price	Total Price
KRONOS INTOUCH DX,HID PROX	38	USD 2,198.00	USD 83,524.00
TOUCH ID PLUS OPTION FOR INTOUCH DX	38	USD 600.00	USD 22,800.00
<b>Total Price</b>			<b>USD 106,324.00</b>

## Hardware Support

Billing Frequency: Invoiced Upon signature of the Order form

Item	Duration(Months)	Total Price
Depot Exchange Support Service	12	USD 15,960.00
<b>Total Price</b>		<b>USD 15,960.00</b>

## Education Services

Billing Frequency: Invoiced Upon signature of the Order form

Item	Quantity	Total Price
KnowledgeMap Live ENT 1st Year Training	15	USD 19,999.95
<b>Total Price</b>		<b>USD 19,999.95</b>

## Accessories

Billing Frequency: Invoiced Upon the Signature of the order form

Item	Quantity	Unit Price	Total Price
NORTH AMERICA POWER ADAPTER FOR EXTERNAL OUTLET, INTOUCH DX	38	USD 0.00	USD 0.00
<b>Total Price</b>			<b>USD 0.00</b>

## Bill As You Go Services

Billing Frequency: Billed monthly as delivered

Item	Billing Role	Quantity	Unit Price	Total Price
WORKFORCE DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Kronos Consultant	24	USD 180.00	USD 4,320.00
WORKFORCE DIMENSIONS ADVISORY SERVICES	Strategic Advisor	80	USD 250.00	USD 20,000.00
WORKFORCE DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Management Consultant	366	USD 200.00	USD 73,200.00

Item	Billing Role	Quantity	Unit Price	Total Price
WORKFORCE DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Kronos Consultant	534	USD 200.00	USD 106,800.00
WORKFORCE DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Analytics Consultant	244	USD 200.00	USD 48,800.00
WORKFORCE DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Integration Consultant	250	USD 200.00	USD 50,000.00
WORKFORCE DIMENSIONS ADVANCED TESTING SERVICES	Kronos Consultant	32	USD 185.00	USD 5,920.00
WORKFORCE DIMENSIONS INTEGRATION BUILD SERVICES	Integration Build Consultant	81	USD 100.00	USD 8,100.00
WORKFORCE DIMENSIONS MIGRATION ENTERPRISE	Integration Consultant	112	USD 0.00	USD 0.00
WORKFORCE DIMENSIONS MIGRATION ENTERPRISE	Kronos Consultant	890	USD 0.00	USD 0.00
WORKFORCE DIMENSIONS MIGRATION ENTERPRISE	Integration Build Consultant	48	USD 0.00	USD 0.00
WORKFORCE DIMENSIONS MIGRATION ENTERPRISE	Technology Consultant	24	USD 0.00	USD 0.00
WORKFORCE DIMENSIONS USER ADOPTION SERVICES	Education Consultant	46	USD 180.00	USD 8,280.00
<b>Total Price</b>				<b>USD 325,420.00</b>

#### Quote Summary

	Total Price
Total Monthly SaaS and Equipment Rental Fees	USD 40,366.32

	Total Price
Total Equipment Purchase and Accessories Fee	USD 106,324.00

	Total Price
Total Support Fee	USD 15,960.00

	Total Price
Purchased Training	USD 19,999.95

	Total Price
Total Bill As You Go Services	USD 325,420.00

Standard Contract