

**Iowa Office of Chief Information Officer
Contracts Declaration & Execution (“CD&E”)**

<p>Title of Contract: The State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement (“Umbrella Agreement” or “Agreement”) leveraging OMNIA Partners Contracts No. 18220 and 18221 for Workforce Management Systems and Related Products, Services and Solutions and any and all corresponding solicitation/response documents, <i>available at</i> https://www.omniapartners.com/hubfs/PUBLIC%20SECTOR/Supplier%20Information/Kronos/Updates%2003.12.2019/Official Signed Kronos%20Contract REDACTED.pdf or any successor webpage thereto, and all amendments thereto, all of which are incorporated by reference herein as Special Terms and Conditions (all of the foregoing shall be collectively referred to herein as the “OMNIA Contract”).</p>	<p>Contract Number: 2019 BUS 0503</p>	
<p>State Agency’s Name: Iowa Office of Chief Information Officer (“OCIO”)</p>		
<p>Vendor Names: Kronos Incorporated, (“Kronos Inc”) or Kronos SaaShr, Inc. (“Kronos SaaShr”), as applicable (“Vendor” or “Contractor” or “Kronos”). The entity that executes the individual Purchasing Instrument(s) forming the basis of any individual transaction hereunder shall be considered “Vendor” or “Contractor” or “Kronos” for purposes of this Agreement and any related attachments hereto, and shall ultimately be responsible for compliance with the terms, conditions, requirements, duties, obligations, and liabilities set forth herein.</p>		
<p>Contract to Begin/Effective As of the Date of Last Signature, below.</p>	<p>Date of Expiration: March 17, 2022</p>	<p>Annual Extensions: Optional one-year extensions/renewals; provided that such extensions/renewals shall not extend beyond the term of the underlying OMNIA Contract, including any and all extensions/renewals thereto.</p>
<p><u>Documents Incorporated/Order of Precedence.</u> This Umbrella Agreement, any and all attachments to this Umbrella Agreement which are incorporated by reference as if fully set forth herein, together comprise the terms and conditions governing the relationship between the Parties. In the case of any conflict or inconsistency between the specific provisions of this Umbrella Agreement, any and all attachments to this Umbrella Agreement, such conflict or inconsistency shall be resolved in the following order:</p>		

1. First by giving preference to any Special Terms and Conditions/Ancillary Agreements addressing compliance or privacy concerns of individual Governmental Entities making purchases hereunder, or addressing requirements of or related to a specific funding used to pay for Deliverables hereunder.
2. Second by giving preference to the specific provisions of this Umbrella Agreement.
3. Third by giving preference to the specific provisions of any Purchasing Instruments (Purchase Order(s)/Statement(s) of Work/Requisitions) executed hereunder. Notwithstanding this order of precedence/priority, any pre-printed legal terms or conditions included on or set forth in any Purchasing Instrument, whether expressed or referenced, shall be void and unenforceable; this includes any terms or conditions that conflict with or are inconsistent with any terms, conditions, obligations, requirements, or liabilities set forth in this Agreement, including any Special Terms or Conditions or the Omnia Contract.
4. Fourth by giving preference to any other Special Terms and Conditions attached hereto.
5. Fifth by giving preference to the specific provisions of OMNIA Contracts No. 18220 and No. 18221 (collectively the “**OMNIA Contract**”) with Kronos for Workforce Management Systems and Related Products, Services, and Solutions.

Notes:

- This Agreement does not guarantee any minimum level of purchases, usage, or compensation.
- This Agreement is available to any Governmental Entity, including State Agencies and political subdivisions, in the State of Iowa.
- Pursuant to Section 12.1, in order to proceed with a Purchasing Instrument, Governmental Entities making purchases hereunder may require Vendor to execute ancillary agreements to address compliance, legal, confidentiality, and privacy concerns that may be unique to an applicable Governmental Entity, such as a Business Associate Agreement (“**BAA**”) or Criminal Justice Information System (“**CJIS**”) Security Addendum, or other non-disclosure or confidentiality agreement(s) deemed necessary by the applicable Governmental Entity (“**Ancillary Agreement(s)**”). Vendor may decline to execute such ancillary agreements and acknowledges that the Governmental Entity may not be able to proceed with a Purchasing Instrument as a result.
- **PLEASE NOTE: OCIO HAS NOT PRE-NEGOTIATED ANY ANCILLARY AGREEMENTS IN CONNECTION WITH THIS AGREEMENT. IF PROTECTED HEALTH INFORMATION, FEDERAL TAX INFORMATION, OR OTHER SIMILARLY SENSITIVE INFORMATION IS TO BE STORED OR PROCESSED IN, BY, OR THROUGH KRONOS'S SOFTWARE OR APPLICATION SERVICES AND RELATED CLOUD SERVICES, SUCH MATTERS WILL NEED TO BE CONSIDERED AND ADDRESSED IN THE CONTEXT OF THE INDIVIDUAL TRANSACTION BEING CONTEMPLATED.**
- As a corollary to the immediately preceding note, under this Agreement, in the event of a Security Breach, to the extent such Security Breach was caused in part by the Customer, the damages for such breach may be apportioned between Vendor and the Customer on a comparative fault basis. The Governmental Entity will have contributed to such Security Breach if the Governmental Entity fails to only provide Vendor with the personally identifiable data minimally required to

accomplish tasks for which the Governmental Entity is using the Software or Services; by way of example, use of Social Security Numbers as employee id's, inclusion of Protected Health Information (where an Ancillary Agreement permitting such inclusion has not been negotiated and agreed to by Vendor), or inclusion of Federal Tax Information (where an Ancillary Agreement permitting such inclusion has not been negotiated and agreed to by Vendor) would not comport with the "minimally required" concept. **TO THAT END, GOVERNMENTAL ENTITIES ARE ADVISED TO LIMIT THE AMOUNT OF PERSONAL DATA, PERSONALLY IDENTIFIABLE INFORMATION, OR OTHER SENSITIVE INFORMATION THAT MAY BE SUBJECT TO SAFEGUARDING OR DISCLOSURE REQUIREMENTS OR RESTRICTIONS PURSUANT TO APPLICABLE LAW, RULE, OR REGULATION INCLUDED IN KRONOS' SOFTWARE AND SAAS APPLICATIONS AND RELATED CLOUD SERVICES. SEE SECTION 13A (SECURITY BREACH SUPER CAP) FOR APPLICABLE TERMS AND CONDITIONS.**

- Pursuant to Section 12.1, in order to proceed with a Purchasing Instrument, Governmental Entities making purchases hereunder may require Vendor to execute ancillary agreements to address any additional requirements that may accompany the specific funding source used to pay for the Deliverables hereunder ("**Ancillary Agreement(s)**"). Vendor may decline to execute such ancillary agreements and acknowledges that the Governmental Entity may not be able to proceed with a Purchasing Instrument as a result.
- **PLEASE NOTE: OCIO HAS ONLY PRE-NEGOTIATED THE INCORPORATION OF THE REQUIREMENTS OF TITLE 2 CFR, CHAPTER II, OMB GUIDANCE PART 200, UNIFORM ADMINISTRATIVE COST REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS ("SUPER CIRCULAR"). TO THE EXTENT A SPECIFIC FUNDING SOURCE USED TO PAY FOR DELIVERABLES HEREUNDER REQUIRES THE INCLUSION OF ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, SUCH MATTERS WILL NEED TO BE CONSIDERED AND ADDRESSED IN THE CONTEXT OF THE INDIVIDUAL TRANSACTION BEING CONTEMPLATED.**
- Governmental Entities, including State Agencies and political subdivisions of the State of Iowa may purchase goods available on the Kronos OMNIA Contracts No. 18220 and No. 18221 via this Agreement. Pricing identified in the OMNIA Contracts No. 18220 and 18221 is ceiling pricing only, and nothing in this Agreement shall be construed to prohibit or otherwise limit the State or any other Governmental Entities from negotiating lower prices for Deliverables provided hereunder.
- There are no Customer-Owned Deliverables under this Agreement, meaning Kronos retains ownership and all right and interest of and in any Deliverables or related source code (including all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto) discovered, created, or developed by Kronos at the direction of any Governmental Entity, including as it relates to a specific implementation/configuration of Kronos Software/Services under this Agreement or any engagement for custom application development.
- Governmental Entities licensing Software or SaaS Applications under this Agreement do not obtain rights to any related source code. Kronos does not generally provide source code to its Customers. As a result, Customers are only able to access, install, configure, and run Software

in object code form, or to access, configure, and run SaaS Applications through the Cloud Services as permitted thereby.

- Kronos' Software and SaaS Applications are sold separately from related Professional Services, such as implementation/configuration services, and invoices for payment for such licenses are issued on the date access to such Software/SaaS Applications is granted. Because of this, in the context of a customer that seeks a fully implemented/configured solution to satisfy their specific governmental/business needs, **customers may ultimately be obligated to pay for Software licenses or Subscription services even where a related Professional Services engagement is ultimately unsuccessful in implementing software/subscriptions consistent with the customer's business or governmental needs as defined and identified in an applicable Purchasing Instrument.** As a result, Governmental Entities executing must play an active role in any Professional Services implementation or configuration to ensure Kronos is meeting its obligations under an applicable Purchasing Instrument, and to ensure the Governmental Entity obtains the full benefit of the bargain. Relatedly, refer to Section 5 for Acceptance Testing provisions.
- With one exception, no Governmental Entity shall be bound by any "shrink-wrap" agreement, "click-wrap" agreement, "browser-wrap" agreement, or "sneakwrap" agreement, or any other similar agreement. This means that Governmental Entities purchasing hereunder can, generally speaking, safely click through any such terms and conditions embedded in Kronos' products and services. **THE ONE EXCEPTION PERTAINS TO THE KRONOS MARKETPLACE FOR EITHER THE WORKFORCE DIMENSIONS OR WORKFORCE READY OFFERINGS. AS A RESULT, CUSTOMERS ARE ADVISED TO EITHER DISABLE THE KRONOS MARKETPLACE ENTIRELY AND PROHIBIT THE USE THEREOF OR ENSURE THAT ANY TERMS AND CONDITIONS WHICH THEY MAY HAVE TO AGREE TO AS A CONDITION OF USING SUCH KRONOS MARKETPLACE ARE REVIEWED BY LEGAL COUNSEL PRIOR TO ANY USE. OCIO HAS NOT PRE-NEGOTIATED TERMS AND CONDITIONS OF OR RELATING TO THE KRONOS MARKETPLACE AND GENERALLY RECOMMENDS THAT CUSTOMERS NOT UTILIZE THE KRONOS MARKETPLACE.**
- In its regular course of business, Kronos leases or rents some equipment to its customers, rather than selling them such equipment. However, OCIO and Kronos do not anticipate that such equipment leases or rentals are critical to any transactions that may be contemplated hereunder. **AS A RESULT, OCIO HAS NOT PRE-NEGOTIATED TERMS AND CONDITIONS OF OR RELATING TO EQUIPMENT RENTALS OR LEASING. RENTING OR LEASING EQUIPMENT UNDER THIS AGREEMENT IS THEREFORE PROHIBITED.**
- Governmental Entities making purchases hereunder are responsible for reviewing product-specific Special Terms and Conditions attached hereto and any related or incorporated Acceptable Use or Privacy Policies or other similar terms and conditions prior to purchasing any Deliverables to which such terms and conditions apply. Such product-specific Special Terms and Conditions and related or incorporated Acceptable Use or Privacy Policies or other similar terms and conditions may contain access or use restrictions with which Governmental Entities must comply or may impose duties or obligations on Governmental Entities in connection with the use of Kronos Deliverables. By way of example only, Kronos frequently requires that, as a condition of the use of its SaaS Applications and related Cloud Services:
- Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in connection with the Services. Customer represents and warrants to Kronos that the Customer Content: (a) does not infringe or violate any third-party right, including

but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.

- Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, Third Party services and related equipment and components); and (b) subject to Section 11.5, provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement.

These are only examples, but Governmental Entities generally need to review such terms and conditions and ensure that they are able to comply with the same prior to using any Kronos Deliverables.

- Pursuant to Iowa Code chapter 8B, Participating Agencies of the State of Iowa (meaning any state agency, except the state board of regents and institutions operated under the authority of the state board of regents) are required to comply with Information Technology policies, standards, processes, guidelines, or procedures developed by OCIO pursuant to Iowa Code section 8B, available at: <https://ocio.iowa.gov/> (navigate to policies, standards, rules, respectively) ("**I.T. Governance Document(s)**"). These I.T. Governance Documents are generally applicable to Participating Agencies absent a waiver granted pursuant to Iowa Code section 8B.21(5) and corresponding implementing rules. Kronos was generally not willing or able to blanketly represent or warrant that its Deliverables comply with these I.T. Governance Documents. Instead, Kronos provides Customers with security due-diligence packets that outline the security/privacy-related administrative, technical and physical safeguards Kronos implements as it relates to its Deliverables, including SaaS Applications and related Cloud Services. These security due-diligence packets are available upon request by, and at no cost to, Customers making purchases hereunder. **PLEASE NOTE: PARTICIPATING AGENCIES MAKING PURCHASES HEREUNDER ARE RESPONSIBLE FOR OBTAINING SUCH DUE DILIGENCE PACKETS PRIOR TO USING KRONOS DELIVERABLES PURCHASED HEREUNDER AND REVIEWING SUCH DUE DILLIGENCE PACKETS AGAINST APPLICABLE I.T. GOVERANNCE DOCUMENTS AND RELATED REQUIREMENTS TO DETERMINE AND ENSURE COMPLIANCE WITH THE SAME OR WHETHER THEY MUST APPLY FOR AND OBTAIN A WAIVER FROM OCIO PRIOR IN ACCORDANCE WITH APPLICABLE LAWS AND RULES PRIOR TO ANY USE AND PRIOR TO SUCH PURCHASE.**
- Governmental Entities making purchases hereunder are responsible for reviewing Purchasing Instruments prior to issuance or execution to ensure that they contain and clearly document all relevant and necessary requirements and Specifications. **PLEASE NOTE** that Kronos was not willing to include within the definition of "Specifications" any specifications, requirements, technical standards, or performance standards, identified in an underlying RFP or Kronos's responsive proposal thereto if issued by a Governmental Entity unless such additional "Specifications" were mutually agreed upon in a Purchasing Instrument. Accordingly, Governmental Entities are cautioned to not rely on representations in those documents, but instead are encouraged to diligently and thoroughly document their business needs and requirements in applicable Purchasing Instruments.

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which

are hereby acknowledged, the Parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement.

Vendor: Kronos SaaShr, Inc.

By (Authorized Signature)



Date Signed

01/03/2020

Printed Name and Title of Person Signing

Robert DelPonte, President

Address

900 Chelmsford Street, Lowell MA 01851

Vendor: Kronos Incorporated

By (Authorized Signature)



Date Signed

01/03/2020

Printed Name and Title of Person Signing

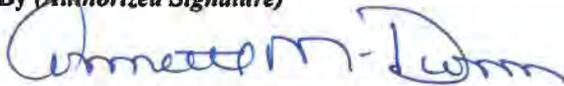
John O'Brien, Chief Revenue Officer

Address

900 Chelmsford Street, Lowell MA 01851

State of Iowa, acting by and through the Office of the Chief Information Officer

By (Authorized Signature)



Date Signed

1-6-20

Printed Name and Title of Person Signing

Annette Dunn, Chief Information Officer

Address

Iowa Office of the Chief Information Officer

Hoover Bldg. – Level B

1305 E Walnut St.

Des Moines, IA 50319

State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement

This Agreement for Kronos Workforce Management Systems and Related Products, Services and Solutions is made and is effective as of the date identified on the Contract Declarations and Executions Page (“**Effective Date**”), by and between the State of Iowa, acting by and through the Office of the Chief Information Officer (“**OCIO**”), Kronos SaaS, Inc., (“**Kronos SaaS**”) a corporation organized under the laws of New Jersey, and Kronos Incorporated, (“**Kronos Inc**”) a corporation organized under the laws of Massachusetts. The parties may be referred to herein individually as a “**Party**” or collectively as the “**Parties**”; provided, however, that where the context clearly requires, the term “**Party**” or “**Parties**” may refer to or include the Governmental Entity making the individual purchase(s) hereunder. Individual Governmental Entities making individual purchases hereunder may also be referred to as “**Customer**.” The Parties agree to the following:

1. Overview.

- 1.1. Purpose. This Agreement establishes the terms and conditions pursuant to which Governmental Entities in the State of Iowa may procure Kronos Workforce Management Systems and Related Products, Services and Solutions available pursuant to the OMNIA Contract. This Agreement does not guarantee any minimum level of purchases, usage, or compensation.
- 1.2. Authorities. OCIO enters into this Agreement, as it relates to Workforce Management Systems and Related Products, Services and Solutions, available via the OMNIA Contract pursuant to Iowa Code section 8B.24(5)(c). This Section authorizes the Office “on its own behalf or on the behalf of another participating agency or governmental entity, [to] procure information technology by leveraging an existing competitively procured contract . . .” or “[to] procure information technology under a contract let by another agency or other governmental entity, or approve such procurement in the same manner by a participating agency or governmental entity.” In the alternative, Iowa Code section 8B.24(5)(a) authorizes “the office [to] enter into a cooperative procurement agreement with another governmental entity relating to the procurement of information technology, whether such information technology is for the use of the office or other governmental entities.” OCIO has concluded this is in the best interests of the State of Iowa because Vendor is a known provider that has historically provided quality Deliverables to the State, the OMNIA Contract was the product of a competitive process conducted at the national level and thereby resulted in leveraged volume purchasing discounts in excess of those which the State would likely obtain if it conducted a separate competitive process, and utilizing the OMNIA Contract saves the State time and money associated with conducting a separate, duplicative competitive process.
- 1.3. Term. The initial term of this Agreement shall be as stated on the CD&E, unless terminated earlier in accordance with the terms of this Agreement. After expiration of the initial term, OCIO shall have the option to extend/renew this Agreement for additional one-year renewal terms; provided that any such extensions/renewals shall not extend beyond the total term of the OMNIA Contract, including any and all extensions/renewals thereto. The decision to extend this Agreement shall be at the sole option of OCIO and may be exercised by OCIO by providing written notice to Vendor.
- 1.4. Relationship between this Agreement and Individual Purchasing Instruments. Each Purchasing Instrument executed hereunder shall be deemed, upon its execution, to incorporate the terms and conditions of this Agreement and shall constitute a separate,

distinct, and independent Agreement between Vendor and the applicable Governmental Entity. To the extent a Governmental Entity other than OCIO makes a purchase hereunder pursuant to a Purchasing Instrument executed by it, such Governmental Entity shall be solely responsible for any payments due and duties and obligations otherwise owed Vendor under this Agreement. In addition, notwithstanding any other provision of this Agreement to the contrary, OCIO bears no obligation or liability for any other Governmental Entity's losses, liabilities, or obligations, including Vendor's failure to perform, arising out of or relating in any way to this Agreement. Likewise, the State of Iowa generally bears no obligation or liability for any political subdivision or other non-State Entity's losses, liabilities, or obligations, including Vendor's failure to perform, arising out of or relating in any way to this Agreement.

- 1.5. Incorporation of OMNIA Contract. The OMNIA Contract identified on the CD&E is incorporated by reference as if fully set forth herein. Governmental Entities making purchases hereunder shall be afforded all of the rights, privileges, warranties, and indemnifications afforded the Lead Public Agency and/or any Agencies making purchases under the OMNIA Contract, and such rights, privileges, warranties, and indemnifications shall accrue and apply with equal effect to Governmental Entities making purchases hereunder. Except as otherwise provided herein, Vendor shall perform all duties, responsibilities and obligations required under the OMNIA Contract in the time and manner specified thereunder. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the OMNIA Contract, such conflict or inconsistency shall be resolved as stated on the CD&E.
2. **Definitions.** In addition to any other terms that may be defined elsewhere in this Agreement, and those defined in the RFP, which are incorporated by reference as if fully set forth herein, the following terms shall have the following meanings. To the extent a capitalized term used herein is not defined in the body of this Umbrella Agreement, but is defined in Special Terms and Conditions attached hereto, such definition shall be incorporated herein by reference as if fully set forth herein.
 - 2.1. **"Acceptance"** means Customer has conducted any applicable Acceptance Testing and accepted any applicable Deliverables in accordance with the provisions of Section 5.1 (Acceptance Testing). **"Final Acceptance"** means the applicable Governmental Entity has determined all Deliverables provided under a Purchasing Instrument satisfy the Governmental Entity's Acceptance Tests. **"Non-acceptance"** means the applicable Governmental Entity has determined that a portion of Deliverables provided under a Purchasing Instrument have not satisfied the Governmental Entity's Acceptance Tests.
 - 2.2. **"Acceptance Tests"** or **"Acceptance Testing"** mean the tests, reviews and other activities performed by or on behalf of Customer to determine whether Deliverables purchased under a given Purchasing Instrument fail to meet any applicable Specifications in accordance with the provisions of Section 5.1 (Acceptance Testing).
 - 2.3. **"Application Services"** or **"SaaS Application(s)"** generally means the Software and applications provided to Customer by and through the Cloud Services and running on a cloud infrastructure. As used in this Agreement, Application Services or SaaS Application(s) shall be as more specifically defined in the Special Terms and Conditions applicable to the specific offering. *See* Section 3.1.2.4 (Software/Application Services) and corresponding Special Terms and Conditions set forth in that Section and attached hereto.
 - 2.4. **"Agreement,"** unless the context requires otherwise, means the collective documentation memorializing the terms of the agreement identified on the Contract Declarations &

Execution Page(s) and all other attachments to the Contract Declarations & Execution Page(s).

- 2.5. **“Authorized Contractors”** means independent contractors, consultants, or other Third Parties (including other Governmental Entities) who are retained, hired, or utilized by any Governmental Entity to use, maintain, support, modify, enhance, host, or otherwise assist a Governmental Entity with any Deliverables.
- 2.6. **“Cloud Services”** generally refers to a computing model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. As used in this Agreement, Cloud Services shall be as more specifically defined in the Special Terms and Conditions applicable to the specific Cloud Services offering. See Section 3.1.2.4 (Software/Application Services) and corresponding Special Terms and Conditions set forth in that Section and attached hereto.
- 2.7. **“Confidential Information”** means, subject to any applicable federal, State, or local laws and regulations, including Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either Party (**“Disclosing Party”**) to the other Party (**“Receiving Party”**) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the Parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (ii) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (iii) was disclosed to the Receiving Party without restriction by an independent Third Party having a legal right to disclose the information; (iv) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (v) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; (vi) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency or regulatory authority, or by applicable regulatory or professional standards; or (vii) is disclosed by the Receiving Party with the written consent of the Disclosing Party.
- 2.8. **“Customer Data”** or **“Customer Content”** means all content that a Governmental Entity, directly or indirectly, posts or otherwise inputs into a Kronos hosting environment, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an employee), text, multimedia images (e.g., graphics, audio and video files), or compilations. Customer Data and Customer Content shall be deemed to be the Confidential Information of the Governmental Entity.
- 2.9. **“Customer Property”** means any property of or belonging to a Governmental Entity making purchases hereunder, including Customer Data/Customer Content, software, hardware, programs or other property possessed, owned, or otherwise controlled or maintained by a Governmental Entity, excluding Kronos Software which is licensed by Kronos to the Governmental Entity.

- 2.10. **“Deficien(t)(cy)(ies)”** means a defect, flaw, error, bug, failure, omission, interruption of service, or other problem resulting in a failure of a Deliverable to conform to or meet an applicable Specification.
- 2.11. **“Deliverables”** means all of the Services, work, work product, items, materials, and property to be created, developed, produced, performed by or on behalf of, or otherwise made available through, Vendor, Vendor Contractors, or Vendor Personnel, directly or indirectly, in connection with this Agreement, including but not limited to Cloud Services, SaaS Applications, Software, or Goods or Products.
- 2.12. **“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, guides, and manuals, related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media published by Contractor or generally made available to Customers by inclusion in or as a part of the applicable Deliverables.
- 2.13. **“End User License Agreement(s)” or “EULA(s)” or “Terms of Service” or “TOS”** means Vendor’s or applicable Third Parties’ standard contract documents or terms or conditions governing a Governmental Entity’s access to, use of, or deployment of certain Software or Services Vendor supplies hereunder, directly or indirectly, and that a Governmental Entity may be required to execute or agree to in connection with its use of the same. Such standard contract documents or terms or conditions have been attached hereto as Special Terms and Conditions and negotiated between the Parties.
- 2.14. **“Equipment”** means the Kronos equipment (timeclocks and ancillary devices) purchased by a Governmental Entity under this Agreement.
- 2.15. **“Updates”** means Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software, which may be provided by Contractor from time to time as part of its software support maintenance services. Updates shall be part of the Software and the provisions of the license terms shall apply to such Updates and to the Software as modified thereby.
- 2.15.1. The term **“Service Packs”** shall mean releases that contain official, tested bug fixes and are designated generally by updating the digit to the right of the second decimal point. Examples of Service Packs are x.y.1 and x.y.2.
- 2.15.2. The term **“Point Releases”** shall mean releases that generally contain minor new features or functionality and are designated generally by updating the digit to the right of the first decimal point. Examples of Point Releases are x.1 and x.2.
- 2.15.3. The term **“Major Releases”** shall mean releases that generally contain major new features or functionality and are designated generally by updating the digit to the left of the first decimal point. Examples of Major Releases are 4.0 and 5.0.
- 2.16. **“Goods or Products”** includes all products, equipment (including Equipment or Products), hardware, or Software, third-party provided services, including but not limited to, extended warranty and product support services by or originating with Vendor or an Original Equipment Manufacturer (**“OEM”**), manufacturer or publisher, and sold to Governmental Entities hereunder.

- 2.17. **“Governmental Entity”** shall mean any Governmental Entity, as defined in Iowa Code Section 8A.101, or any successor provision to that section. The term Governmental Entity includes Participating Agencies, agencies, independent agencies, the Judicial Branch, courts, boards, authorities, institutions, establishments, divisions, bureaus, commissions, committees, councils, examining boards, public utilities, offices of elective constitutional or statutory officers, and other units, branches, or entities of government. A Governmental Entity may also be referred to as a **“Customer”** throughout this Agreement.
- 2.18. **“I.T. Governance Document(s)”** or **“Governance Document(s)”** means any Information Technology policies, standards, processes, guidelines, or procedures developed by OCIO pursuant to Iowa Code section 8B, *available at: <https://ocio.iowa.gov/>* (navigate to policies, standards, rules, respectively), and which are generally applicable to Participating Agencies, absent a waiver granted pursuant to Iowa Code section 8B.21(5) and corresponding implementing rules.
- 2.19. **“Participating Agency”** shall have the same meaning ascribed to it under Iowa Code section 8B, including any subsequent amendments or successor provisions thereto, and which at the time of execution of this Agreement meant any state agency, except the state board of regents and institutions operated under the authority of the state board of regents.
- 2.20. **“Professional Services”** means services provided by Vendor requiring specialized knowledge and skill, typically in connection with the use, configuration, or implementation of other Deliverables provided hereunder, and as may be more specifically defined and described in a Purchasing Instrument.
- 2.21. **“Purchasing Instrument”** means documentation issued by a Governmental Entity to Vendor for the purchase of Deliverables under this Agreement, including a **“Purchase Order,” “Statement of Work,” “Order Form”** or **“Order,”** or any other type of ordering document executed hereunder, regardless of form, and which identifies the Deliverables to be purchased and any other requirements deemed necessary by the applicable Governmental Entity, such as compensation and delivery dates. Notwithstanding anything in this Agreement to the contrary, any pre-printed legal terms or conditions included on or set forth in any Purchasing Instrument, whether expressed or referenced, shall be void and unenforceable; this includes any terms or conditions that conflict with or are inconsistent with the terms, conditions, obligations, requirements, or liabilities set forth in this Agreement, including any Special Terms or Conditions or the Omnia Contract.
- 2.22. **“Security Breach”** means the unauthorized acquisition of or access to Customer Data by an unauthorized person that compromises the security, confidentiality, or integrity of Customer Data, including instances in which internal personnel access systems in excess of their user rights or use systems inappropriately. **“Security Breach”** shall also be deemed to include any breach of security, confidentiality, or privacy as defined by any applicable law, rule, regulation, or order.
- 2.23. **“Services”** may include any and all services included within the scope of the OMNIA Contract, including any Professional Services as outlined and described in an applicable Purchasing Instrument (including any implementation or configuration services for or relating to any Cloud Services, Application Services, Software, or Equipment), Cloud Services, or Application Services.

- 2.24. **“Software”** means any and all other software, programs, including Programs, applications, modules and components, in object code form, all related Documentation, Updates, and all copies of the foregoing.
- 2.25. **“Special Terms and Conditions”** means any attachment hereto entitled, in whole or in part, **“Special Terms and Conditions.”**
- 2.26. **“Specifications”** means Documentation for Vendor’s Software, Cloud Services, SaaS Applications, Equipment, or any other Deliverables (*i.e.*, user manuals, database reference guides, installation and configuration worksheets; system administrator guide; users guide; etc.) and all specifications, requirements, technical standards, and performance standards, identified in any individual Purchasing Instrument executed hereunder.
- 2.27. **“Third Party”** means a person or entity (including, any form of business organization, such as a corporation, partnership, limited liability corporation, association, etc.) that is not a party to this Agreement.
- 2.28. **“Vendor Contractor(s)”** means any of Vendors authorized subcontractors, affiliates, subsidiaries, or any other Third Party acting on behalf of or at the direction of Vendor in performing or providing Services under this Agreement.
- 2.29. **“Vendor Personnel”** means officers, directors, employees, agents, independent contractors, or any other staff or personnel acting on behalf of or at the direction of Vendor or any Vendor Contractor performing or providing Services under this Agreement.

3. Deliverables.

3.1. Purchasing Instruments.

- 3.1.1. *Performance.* Vendor shall commence, complete, deliver, and provide all work and provide all Deliverables available under the OMNIA Contract in accordance with the requirements set forth in this Agreement, any Purchasing Instrument(s) executed by a Governmental Entity hereunder, and any other Special Terms and Conditions.
- 3.1.2. *Delivery.*
 - 3.1.2.1. Risk of Loss. To the extent any Deliverables are mailed or shipped, Vendor or Vendor Contractors shall bear:
 - 3.1.2.1.1. Except as otherwise set forth in the applicable Purchasing Instrument, all freight, shipping, handling, and insurance costs for the delivery; and
 - 3.1.2.1.2. All risk of loss, including any losses resulting from any damage to or destruction, in whole or in part, which may occur prior to the delivery.
 - 3.1.2.1.3. Delivery terms for the Goods and Products and Software that is physically delivered shall be FOB destination, unless otherwise stated on the applicable Purchasing Instrument.

- 3.1.2.2. *Goods or Products.* Governmental Entities may purchase Goods or Products or other equipment (including Equipment), hardware, Software licenses, SaaS Applications and related Cloud Services, and other Deliverables available by or through Kronos, directly or indirectly, hereunder to the extent available under the OMNIA Contract.
- 3.1.2.3. *Equipment.* Title to Kronos Equipment purchased by a Governmental Entity shall pass to and vest in that Governmental Entity upon shipment to such Governmental Entity.
- 3.1.2.4. *Software/Application Services.* Kronos's (and related applicable Third Parties') standard contract document (*i.e.*, EULA's or TOS's) for the following Deliverables have been attached hereto as Special Terms and Conditions and negotiated between the Parties. The purchase, access, use, or other provisioning of such Deliverables shall be governed by the applicable Special Terms and Conditions. Notwithstanding the foregoing, in the event of any conflict or inconsistency between the terms, conditions, duties, obligations, requirements, or liabilities set forth in this Umbrella Agreement and any such Special Terms and Conditions, the terms, conditions, duties, obligations, requirements, or liabilities set forth in this Umbrella Agreement shall take precedence.
- 3.1.2.4.1. Special Terms and Conditions #002: TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND PROFESSIONAL SERVICES. This Section applies for all transactions except Workforce Ready, Workforce Dimensions, and the Workforce Central SaaS offerings (not including the professional and educational services governed by this Section).
- 3.1.2.4.2. Special Terms and Conditions #003: KRONOS WORKFORCE CENTRAL SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Central transactions in a SaaS environment (except for the related professional and educational services *see* Special Terms and Conditions #005).
- 3.1.2.4.3. Special Terms and Conditions #004: KRONOS WORKFORCE TELESTAFF IVR SERVICE. This section applies only for Telestaff IVR Services ordered by Customers.
- 3.1.2.4.4. Special Terms and Conditions #005: KRONOS WORKFORCE DIMENSIONS TERMS AND CONDITIONS. This section applies to the Workforce Dimension Services ordered by Customers.
- 3.1.2.4.5. Special Terms and Conditions #006: KRONOS WORKFORCE READY SAAS TERMS AND CONDITIONS. This Section applies only for Workforce Ready transactions.
- 3.1.3. *Amendments to Purchasing Instruments.* A Purchasing Instrument may be amended, modified, or replaced at any time during the term of this Agreement upon the mutual written consent of Vendor and the applicable Governmental Entity.

- 3.1.4. *Change Order Procedure.* A Governmental Entity may at any time request a modification to the scope of a Purchasing Instrument using a change order. The following procedures for a change order shall be followed:
- 3.1.4.1. *Written Request.* The Governmental Entity shall specify in writing the desired modifications to the Purchasing Instrument with the same degree of specificity as in the original Purchasing Instrument.
- 3.1.4.2. *Vendor's Response.* Vendor shall submit to the Governmental Entity any proposed modifications to the Purchasing Instrument and a firm cost proposal, if applicable, for the requested change order within five (5) business days of receiving the Governmental Entity's change order request.
- 3.1.4.3. *Effect of Change Order.* Both Parties must sign and date the change order to authorize the change in Deliverables described therein and incorporate the changes into the applicable Purchasing Instrument and this Agreement. No Deliverables shall be provided pursuant to the change order and no payment shall be made on account of the change order until the change order is fully executed by both Parties. Upon such execution, a change order shall alter only that portion of a Purchasing Instrument to which it expressly relates and shall not otherwise affect the terms and conditions of this Agreement.

4. **Compensation and Additional Rights and Remedies.**

4.1. Pricing/Compensation.

- 4.1.1. *Generally.* Except as otherwise provided herein or as set forth in an applicable Purchasing Instrument, the maximum price/fees for Deliverables shall be in an amount equal to or less than the price/fees established in the OMNIA Contract, which price/fees are generally listed here: <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/kronos> or any successor webpage thereto (as updated from time to time in accordance with the terms and conditions of the OMNIA Contract).
- 4.1.2. *Professional Services.* Vendor shall provide Professional Services to Governmental Entities hereunder at:
- 4.1.2.1. Hourly rates equal to ("**Hourly Rate(s)**") the all-inclusive, hourly, not-to-exceed rates identified in the "**Kronos Incorporated US_Communities Pricebook 01182019,**" available at <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/kronos> or any successor webpage thereto (as updated from time to time in accordance with the terms and conditions of the OMNIA Contract). An Hourly Rates Purchasing Instrument should be used when the Governmental Entity's requirements are not sufficiently defined as to allow for a fixed price to be developed; or
- 4.1.2.2. Lump-sum, fixed-price rates for predefined projects, which shall not otherwise exceed the total cost the applicable Governmental Entity would incur were it billed at Hourly Rates less applicable discounts plus the actual cost of any other Deliverables provided by Vendor

hereunder or in connection therewith (“**Fixed Price, Not-to-Exceed**”). A Fixed Price, Not-to-Exceed Purchasing Instrument should be used when a Governmental Entity’s requirements can be set forth in sufficient detail as to allow for a fixed price to be developed. A Fixed Price, Not-to-Exceed Purchasing Instrument may include a milestone payment schedule associated with the Deliverables defined therein.

Failure of a Governmental Entity to pay any undisputed fees that may be owing in accordance with the terms of this Agreement shall not result in any suspension or termination of any Deliverables, so long as payment of such undisputed fees is made within the applicable cure period. In the event of any dispute related to fees, Vendor shall continue to perform and provide Deliverables until after the Parties have engaged in good faith attempt to resolve the fee dispute. Such good faith attempt shall include, at a minimum outlining in writing the Parties’ respective positions concerning such fee dispute, providing such written position to the other Party, and escalating the dispute to the appropriate level of management for appropriate resolution. This obligation to engage in good faith efforts to resolve a fee dispute prior to suspending or terminating any Deliverables shall not preclude the Parties from pursuing other remedies that may be otherwise available under this Agreement, at law, or in equity.

4.2. No Additional Fees. Except to the extent permitted by Section 4.1 or Section 4.2A, the applicable Governmental Entity shall not be obligated to pay any other compensation, fees, expenses, costs, charges or other amounts to Vendor in connection with this Agreement or any Purchasing Instrument(s). For the avoidance of doubt, except as otherwise permitted by Section 4.2A, there shall be no reimbursable expenses associated with this Agreement, and Vendor shall be solely responsible for all other costs, charges, and expenses it incurs in connection with this Agreement, including equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other operational and administrative costs and expenses.

4.2A Subject to any applicable laws, rules, policies and procedures, and where agreed to in the applicable Purchasing Instrument, the applicable Customer shall reimburse Contractor for the reasonable and actual costs of transportation, meals and lodging incurred by Contractor with respect to travel incurred by Contractor in providing services to the Customer; provided, however that: (i) all such costs have been submitted by Contractor and approved by the applicable Customer in advance of any such travel; and (ii) notwithstanding any such approval by the applicable Customer, any reimbursement for allowable transportation, meals and lodging shall not exceed the maximum reimbursement rates applicable to board, commission, advisory council and task force members, including, without limitation, those set forth in the State Accounting Policy and Procedures Manual 210.245 and 210.305 (or any successor provisions) or such other rates as may later be established by applicable laws, rules, policies or procedures. Contractor agrees to utilize the most economical and reasonable mode of transportation available and shall comply with any other travel policies, procedures or requirements applicable to contractors of the State or applicable Governmental Entity. Contractor shall submit a copy and itemized receipts and any other supporting documentation as may be requested by the applicable Customer or its designee with respect to all costs and expenses submitted by Contractor for reimbursement. The Customer reserves the right to audit all reimbursement requests and to withhold or deny reimbursement for Contractor’s failure to comply with the requirements of this section and applicable travel policies. Except for the foregoing, there shall be no other reimbursable expenses associated with this Contract, and Contractor shall

be solely responsible for all other costs, charges and expenses it incurs in connection with its performance under this Contract, including, but not limited to, equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other operational and administrative costs and expenses of Contractor.

- 4.3. Effect of Purchasing Instruments. In no event shall a Governmental Entity be obligated to pay Vendor any fees, costs, compensation, or other amounts in excess of the amount specified in a Purchasing Instrument for any one or more Deliverable(s), unless the applicable Governmental Entity otherwise agrees to pay such fees, costs, compensation, or other amounts pursuant to a written Change Order or an amendment to the applicable Purchasing Instrument executed by the applicable Governmental Entity.
- 4.4. Payment does not imply Acceptance. No payment, including final payment, shall be construed as acceptance of any Deliverables with Deficiencies or incomplete work, and Vendor shall remain responsible for full performance in strict compliance with the terms and conditions of this Agreement.
- 4.5. Invoices.
 - 4.5.1. Deliverables. Vendor shall submit an invoice to the applicable Governmental Entity requesting payment of the fees or other compensation specified in the Purchasing Instrument associated with such Deliverable(s). All invoices submitted by Vendor shall comply with all applicable rules concerning payment of such fees, charges, or other claims and shall contain appropriate documentation as necessary to support the fees or charges included on the invoice and all information reasonably requested by the applicable Governmental Entity. The applicable Governmental Entity shall verify Vendor's performance/provisioning of Deliverables outlined in the invoice before making payment. Except for payments identified as prepayments, agreed to be prepaid in the applicable Purchasing Instrument, and solely to the extent as otherwise permitted by applicable laws, rules, policies, and procedures, the applicable Governmental Entity shall pay all approved invoices in arrears and, to the extent applicable, in conformance with Iowa Code 8A.514 and corresponding implementing rules, regulations, and policies. Generally, in the case of Professional Services or other similar Services, such Deliverables must be paid in arrears and invoices shall not be submitted to the applicable Governmental Entity until after Vendor has received a written notice of Acceptance with respect to the Deliverables forming the basis of the invoice. Solely to the extent identified in the applicable Purchasing Instrument and as permitted by applicable laws, rules, policies, and procedures, in the case of any subscription-based Deliverables consumed or used on a recurring or ongoing basis (such as Software or SaaS Applications), such Deliverables may be identified as prepayments, paid for in advance, and invoices may be submitted or paid monthly or annually in advance. The applicable Governmental Entity may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not, to the extent applicable, act as an implied waiver of Iowa Code § 8A.514. Notwithstanding anything herein to the contrary, the applicable Governmental Entity shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the applicable Governmental Entity believes the invoice is inaccurate or incorrect in any way.

4.5.2. Goods or Products. Vendor shall submit an invoice to the applicable Governmental Entity requesting payment of the fees or other compensation specified in the Purchasing Instrument associated with Goods or Products upon shipment. All invoices submitted by Vendor shall comply with all applicable rules concerning payment of such fees, charges, or other claims and shall contain appropriate documentation as necessary to support the fees or charges included on the invoice and all information reasonably requested by the applicable Governmental Entity. The applicable Governmental Entity shall verify Vendor's performance/provisioning of Goods or Products outlined in the invoice before making payment. The applicable Governmental Entity shall pay all approved invoices in arrears and, to the extent applicable, in conformance with Iowa Code 8A.514 and corresponding implementing rules, regulations, and policies. The applicable Governmental Entity may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not, to the extent applicable, act as an implied waiver of Iowa Code § 8A.514. Notwithstanding anything herein to the contrary, the applicable Governmental Entity shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the applicable Governmental Entity believes the invoice is inaccurate or incorrect in any way.

4.6. Retention.

4.6.1. To secure Vendor's performance under this Agreement, Vendor and a Governmental Entity may agree in the applicable Purchasing Instrument that the Governmental Entity may retain fifteen percent (15%) of the fees or other compensation associated with the Professional Services related Project Deliverables to be provided under that Purchasing Instrument ("**Retained Amounts**"), to be retained until all such Professional Services related Deliverables under that Purchasing Instrument have been supplied/provided and the applicable Governmental Entity has given Final Acceptance of all such Professional Services related Deliverables under that Purchasing Instrument. Retained Amounts shall be payable upon the applicable Governmental Entity's delivery of written notice of Final Acceptance of all such Professional Services related Deliverables under the applicable Purchasing Instrument, subject to the terms and conditions hereof.

4.6.2. Reserved.

4.7. Erroneous Payments and Credits. Upon written request from the State, Vendor shall promptly pay or refund to the applicable Governmental Entity the full amount of any confirmed overpayment or erroneous payment within ten (10) business days after either discovery by Vendor or notification by the applicable Governmental Entity of the overpayment or erroneous payment. The applicable Governmental Entity may, in its sole discretion, elect to have Vendor apply any amounts due and owing the Governmental Entity under this Section against any amounts payable by the applicable Governmental Entity under this Agreement.

4.8. Set-off Against Sums Owed by Vendor. In the event Vendor owes a Governmental Entity any sum under the terms of this Agreement, any other agreement, pursuant to a judgment, or pursuant to any law, the applicable Governmental Entity may set off such sum against any sum invoiced to the Governmental Entity by Vendor in the Governmental Entity's sole discretion. Any amounts due the Governmental Entity as damages may be deducted by the

Governmental Entity from any money or sum payable by the Governmental Entity to Vendor pursuant to this Agreement or any other agreement between Vendor and the Governmental Entity.

4.9. Withholding Payments. In addition to pursuing any other remedy provided herein or by law, a Governmental Entity may withhold compensation or payments to Vendor, in whole or in part, without penalty or legal liability to the Governmental Entity or work stoppage by Vendor, in the event the Governmental Entity determines in good faith that:

4.9.1. Vendor has failed to materially perform any of its duties or obligations as set forth in this Agreement; or

4.9.2. Any Deliverable has failed to materially meet or conform to any applicable Specification or contains or is experiencing a Deficiency which remains uncured.

No interest shall accrue or be paid to Vendor on any compensation or other amounts withheld or retained by the Governmental Entity under this Agreement.

4.10. Reserved.

4.11. Administrative Fees. Without affecting the prices/rates Vendor is authorized to charge Governmental Entities hereunder, Vendor shall provide to OCIO a 1.00% administrative fee on all sales made against this Agreement. This 1.00% administrative fee shall be paid quarterly to:

Attn: Business Services Division Administrator

Iowa Office of the Chief Information Officer

Hoover State Office Building, Level B

Des Moines, IA 50319

Payment shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Fee Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

5. **Acceptance Tests, Project Management, and Program Management.**

5.1. Acceptance Testing.

5.1.1. *Professional Services.* Kronos will agree to structure each project implementation/configuration or other Professional Services engagement under a mutually agreed upon Statement of Work with a mutually agreed-upon scope. At specified milestones throughout a project, Kronos will deliver completed project deliverables ("Project Deliverables") for review, Acceptance Testing, approval and sign off by Customer. After Contractor submits Project Deliverables to the Customer for review, Acceptance Testing, approval, and sign off, Customer shall determine whether the submitted Project Deliverables conform to all applicable requirements contained in the applicable Statement of Work and shall accept or reject said Project Deliverables as agreed in the

applicable Statement of Work. If additional time is not requested, the substantial use of any Project Deliverable shall constitute Customer's acceptance of that Project Deliverable. This Section shall survive termination of this Agreement.

5.1.2. *Goods/Products and Software.* With respect to Equipment and Software, Customer will have a test period of sixty (60) days (the "Test Period") from completion of Installation to conduct Acceptance Testing. "Installation" shall be defined as completion of the following: a) the Equipment (*i.e.*, data collection terminal), if any, is mounted and communicating with the Software/Applications; b) Customer has access to the Software; c) Kronos has configured the Software/Applications, including SaaS Applications, for Customer's work and/or pay rules within standard application parameters; d) standard interfaces are transmitting data; e) standard application reports can be generated; and f) implementation team training, if any, is complete. If Customer does not give Contractor a written deficiency statement specifying how the Equipment or Software/Applications, including SaaS Applications, fail to meet the Specifications ("Deficiency Statement") within the Test Period, the Equipment or Software/Applications, including SaaS Applications, shall be deemed accepted. If, after conducting Acceptance Testing, Customer provides Contractor with a written Deficiency Statement, Contractor shall have thirty (30) days to bring the Equipment or Software/Applications, including SaaS Applications, (as applicable) into conformance with the Specifications. If Contractor brings the Equipment or Software/Applications, including SaaS Applications, into conformance with the Specifications, Customer shall conduct Acceptance Tests for a second time (up to an additional sixty (60) days, except where a longer period is agreed to by the Parties in an applicable Purchasing Instrument). If the Equipment or Software/Applications, including SaaS Applications, do not meet the Specifications at the end of this second Acceptance Test period, Customer may terminate the applicable Purchasing Instrument by written notice to Contractor. Upon any such termination, Customer shall return all Equipment or Software/Applications, including SaaS Applications, (and related documentation) forming the basis of such termination to Contractor, and Contractor shall refund any monies paid by Customer to Contractor for all returned Software/Applications, including SaaS Applications, and Equipment.

5.1.3. *Cloud Services and related services to support the cloud environment.* There is not a traditional acceptance process for Cloud Services. Cloud Services are considered "accepted" once Customer has access to the SaaS Applications and hosted environment in which such SaaS Applications are installed. However, Cloud Services are expected to perform in accordance with or otherwise meet or exceed the terms, conditions, and requirements of this Agreement. Additionally, Cloud Services are expected to meet or exceed applicable service level guarantees applicable to the particular service offering (generally attached to and part of the Special Terms and Conditions applicable to the particular service offering).

5.2. Reserved.

5.3. Reserved.

5.4. Administration of Agreement. The Office or Customer shall monitor and review Contractor's performance under this Agreement to ensure Contractor's compliance with this Agreement. Such review and monitoring shall include the Customer's assessment of invoices and reports furnished by Contractor pursuant to this Agreement.

6. **Reserved.**
7. **Representations, Warranties, and Covenants.** In addition to any representations, warranties, or covenants set forth or made in any product-specific terms and conditions attached hereto as Special Terms and Conditions, or otherwise required or agreed to under or as part of the OMNIA Contract, Vendor makes the following additional Representations, Warranties, and Covenants as set forth in this Section.
 - 7.1. Compliance with Law. Vendor represents, warrants, covenants, and promises that Vendor has complied with, and shall continue to comply with all applicable federal, state, foreign, and local laws, rules, regulations, codes, standards, ordinances, and orders applicable to Vendor's business as a technology supplier both generally and in connection with the performance of this Agreement, including the following:
 - 7.1.1. Those prohibiting discriminatory employment practices or related to equal opportunity in employment or affirmative action under federal or state law, rules, regulations, or orders, including Iowa Code chapter 216 and section 19B.7 and the rules of the Iowa Department of Administrative Services and the Iowa Civil Rights Commission. Vendor shall have on file a copy of its affirmative action program, containing goals and time specifications as required by Iowa Administrative Code chapter 11—121.
 - 7.1.2. Those pertaining to any permitting and licensure requirements in carrying out the work performed under this Agreement.
 - 7.1.3. Those relating to prevailing wages, occupational safety and health standards, payment of taxes, gift laws, and lobbying laws.
 - 7.1.4. Vendor agrees to work cooperatively with OCIO or applicable Governmental Entities in responding to or addressing any issues that may arise concerning Section 508 compliance, or other similar issues of or relating to the accessibility of information technology, as it relates to any Software or SaaS Applications licensed hereunder, including, upon request, undergoing, at Vendor's sole expense, a voluntary product accessibility assessment.
 - 7.1.5. Reserved.
 - 7.2. Vendor shall take such steps as necessary to ensure Vendor Contractors providing Professional Services and Vendor Personnel are bound by the terms and conditions contained in this Section. Notwithstanding anything in this Agreement to the contrary, Vendor, Vendor Contractors providing Professional Services, and Vendor Personnel's failure to fulfill any requirement set forth in this Section shall be regarded as a material breach of this Agreement and OCIO may cancel, terminate, or suspend, in whole or in part, this Agreement, and any Governmental Entity may cancel, terminate, or suspend, in whole or in part, any Purchasing Instrument. In addition, OCIO may declare Vendor ineligible for future State contracts in accordance with authorized procedures or Vendor may be subject to other sanctions as provided by law or rule
 - 7.3. Deliverable-Specific Representations and Warranties. Except as otherwise set forth or identified herein, representations and warranties applicable to Deliverables sold hereunder shall be as set forth in the applicable product-specific Special Terms and Conditions or, where applicable, related cloud guidelines applicable to the corresponding Deliverables purchased hereunder, and shall be deemed a contractual obligation of Vendor's hereunder.

8. Indemnification.

8.1. Generally. Vendor and its successors and permitted assigns shall indemnify and hold harmless the applicable Governmental Entity and their employees, officers, board members, agents, representatives, and officials (“**Indemnitees**”) from and against any third party claims, actions, suits, liabilities, damages, losses, settlements, demands, deficiencies, judgments, fines, penalties, taxes, costs and any other expenses (including the reasonable value of time of the Attorney General’s Office and the costs, expenses and attorney fees of other counsel retained by any Indemnitee) resulting from, or arising out of:

8.1.1. Any intentional or willful misconduct, or unlawful acts of Vendor, Vendor Contractors, or Vendor Personnel; or

8.1.2. Any failure by Vendor or Vendor Contractors to make all reports, payments, withholdings, or provide any insurance required by federal and state law, including with respect to Social Security, workers compensation, employee income, the Affordable Care Act, and other taxes, fees, or costs required by Vendor or Vendor Contractors to conduct business in the State; or

8.1.3. Any claim involving any personal injury or damage to tangible property, caused, in whole or in part, by Vendor, Vendor Contractors, or Vendor Personnel; or

8.1.4. Any claim for wages, benefits, compensation, insurance, discrimination, or other similar claims asserted against any Governmental Entity making purchases hereunder by any Vendor Personnel, or any claim, penalties, or fines made, levied, assessed, or imposed by another Governmental Entity or any Vendor Personnel against a Governmental Entity making purchases hereunder in any way related to or involving the misclassification of employees as independent contractors or any allegations or findings of the existence of a joint-employment relationship involving any Vendor Personnel; or

8.1.5. Any claim relating to any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights of any Third Party, including any claim that any Deliverable(s) or any use thereof (or the exercise of any rights with respect thereto) infringes, violates or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any Third Party, provided that: i) Vendor is given prompt written notice of any such claim, and, ii) Customer provides Vendor with all nonconfidential and nonprivileged information in Customer’s possession related to such claim and any further assistance as reasonably requested by Vendor. Vendor will have no obligation to indemnify Customer to the extent any such claim is based on the use of any Deliverable(s) with software or equipment that is not (a) supplied by Vendor or (b) identified by Vendor as compatible with such Deliverable(s). Should any or all of the Deliverable(s) as delivered and maintained by Vendor become, or in Vendor’s reasonable opinion be likely to become, the subject of any such claim, Vendor may at its option: i) procure for Customer the right to continue to use the affected Deliverable(s) as contemplated hereunder; ii) replace or modify the affected Deliverable(s) to make its use non-infringing; or iii) should such options not be available at reasonable expense, terminate the applicable Purchasing Instrument upon thirty (30) days prior written notice to Customer. In such event of termination, Customer shall be entitled to a pro-rata refund of all fees paid to Vendor for the affected Deliverable(s), which refund, to the extent applicable, shall be calculated using a five-year straight-line

depreciation method commencing with the date of the relevant Purchasing Instrument.

- 8.2. Vendor's duties as set forth in this Section shall survive termination of this Agreement and shall apply to all acts or omissions taken or made in connection with Vendor's, Vendor Contractor's, or Vendor Personnel's performance of this Agreement regardless of the date any potential claim is made or discovered by a Governmental Entity or any other Indemnitee.

9. Default and Termination.

- 9.1. Termination for Cause by OCIO or Governmental Entities. OCIO may terminate this Agreement and the applicable Governmental Entity may terminate a Purchasing Instrument upon written notice of Vendor's breach of any material term, condition or provision of this Agreement or the applicable Purchasing Instrument, if such breach is not cured within thirty (30) days, provided that cure is feasible. Any time allowed for cure of a default shall not eliminate or reduce any liability Vendor may have for any liquidated damages, if any. In addition, OCIO may terminate this Agreement and the applicable Governmental Entity may terminate a Purchasing Instrument effective immediately without penalty or legal liability and without advance notice or opportunity to cure for any of the following reasons:

- 9.1.1. Contractor makes any representation, warranty or certification in connection with this Agreement or any written proposal that is false, deceptive, or materially incorrect or incomplete;
- 9.1.2. Any of Contractor's officers, directors, or upper management has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;
- 9.1.3. Contractor or any of Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors, or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith, which adversely impacts the services or products provided by Contractor to the Office under this Agreement;
- 9.1.4. Dissolution of Contractor or any parent or affiliate of Contractor owning a controlling interest in Contractor;
- 9.1.5. Contractor 1) terminates its business, or 2) suspends its business in a manner that adversely impacts the services or products provided by Contractor to the Office under this Agreement;
- 9.1.6. Contractor's authorization to engage in business either in Iowa or where organized is suspended, terminated, revoked or forfeited;
- 9.1.7. Contractor has failed to comply with any applicable international, federal, state, or local laws, rules, ordinances, regulations or orders when performing within the scope of this Agreement, and which failure creates adverse impacts on the Services provided by Contractor under this Agreement;
- 9.1.8. The Office in good faith determines or believes the Contractor has engaged in conduct that has or may expose the Office, any Customer or the State to material liability;
- 9.1.9. Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Contractor misappropriates or allegedly misappropriates a trade secret which

relates in any manner to the services or products provided under this Agreement;
or

9.1.10. Any of the following has been engaged in by or occurred with respect to Contractor or any corporation, majority shareholder or entity having or owning a controlling interest in Contractor:

9.1.10.1. Commencing or permitting a filing against it which isn't discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

9.1.10.2. Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;

9.1.10.3. Making an assignment for the benefit of creditors;

9.1.10.4. Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Contractor's performance of its obligations under this Agreement;
or

9.1.10.5. Taking any action to authorize any of the foregoing.

The Office's right to terminate this Agreement or any Purchasing Instrument shall be in addition to and not exclusive of other remedies available to the Office, and the Office shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise. The Office and any Customer agrees that, unless the Office or any Customer elects to pay Contractor pursuant to the terms of this Agreement, the Office or any Customer shall return any Equipment or Software delivered by Contractor and not yet paid for by the Office or any Customer up to and including the effective date of a termination under this Section 9.1 (Default and Termination).

9.2. Termination for Cause by Vendor. Vendor may only terminate an applicable Purchasing Instrument upon written notice of the breach by the applicable Governmental Entity of any material term, condition, or provision of this Agreement, if such breach is not cured within thirty (30) days of the applicable Governmental Entity's receipt of Vendor's written notice of breach.

9.3. Termination for Convenience. Following sixty (60) days written notice, OCIO may terminate this Agreement in whole or in part and the applicable Governmental Entity may

terminate a Purchasing Instrument in whole or in part for convenience without the payment of any penalty or incurring any further obligation or liability to Vendor. Termination for convenience can be for any reason or no reason at all.

9.4. Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Agreement to the contrary, OCIO shall, upon written notice, have the right to terminate this Agreement and the applicable Governmental Entity shall, upon written notice, have the right to terminate a Purchasing Instrument without penalty or liability and without any advance notice as a result of any of the following:

9.4.1. The legislature, governor, or other applicable governing body fail in the sole opinion of OCIO or the applicable Governmental Entity to appropriate funds sufficient to allow OCIO or the applicable Governmental Entity to either meet its obligations under this Agreement or the applicable Purchasing Instrument or to operate as required and to fulfill its obligations under this Agreement or the applicable Purchasing Instrument; or

9.4.2. If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by OCIO or the applicable Governmental Entity to make any payment hereunder are insufficient or unavailable for any other reason as determined by OCIO or the applicable Governmental Entity in its sole discretion; or

9.4.3. If OCIO's or the applicable Governmental Entity's authorization to conduct its business or engage in activities or operations related to the subject matter of this Agreement is withdrawn or materially altered or modified such that it may not meet any of its obligations under this Agreement; or

9.4.4. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects OCIO's or the applicable Governmental Entity's ability to fulfill any of its obligations under this Agreement or the applicable Purchasing Instrument.

9.5. Limitation of Payment Obligations. In the event of a termination of this Agreement or a Purchasing Instrument for any reason (except for termination by OCIO or a Governmental Entity pursuant to Section 9.1), the applicable Governmental Entity shall pay only those amounts, if any, due and owing to Vendor for Deliverables, including Goods and Products up to and including the date of termination of this Agreement or the applicable Purchasing Instrument and for which the Governmental Entity is obligated to pay pursuant to this Agreement; provided however, that the applicable Governmental Entity's obligation to pay Vendor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of invoices and proper proof of Vendor's claim. Notwithstanding the foregoing, this Section in no way limits the rights or remedies available to the applicable Governmental Entity and shall not be construed to require the Governmental Entity to pay any compensation or other amounts hereunder in the event of Vendor's breach of this Agreement or any amounts otherwise withheld by the Governmental Entity in accordance with the terms of this Agreement. Notwithstanding anything in this Agreement or any related agreement to the contrary, a Governmental Entity shall not be liable, under any circumstances, for any of the following:

9.5.1. The payment of unemployment compensation to Vendor Personnel;

- 9.5.2. The payment of workers' compensation claims made by Vendor's Personnel, which occur during the Agreement or extend beyond the date on which the Agreement terminates;
 - 9.5.3. Any costs incurred by Vendor in its performance of the Agreement, including startup costs, overhead or other costs associated with the performance of the Agreement;
 - 9.5.4. Any damages or other amounts, including amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Agreement;
 - 9.5.5. Any taxes Vendor may owe in connection with the performance of this Agreement, including sales taxes, excise taxes, use taxes, income taxes or property taxes.
- 9.6. Vendor's Termination or Expiration Duties. Upon receipt of notice of termination, upon expiration, or upon request of the applicable Governmental Entity, Vendor shall:
- 9.6.1. Except as otherwise required pursuant to Section 9.7, Cease work under this Agreement and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Agreement and such other matters as OCIO or the applicable Governmental Entity may require;
 - 9.6.2. Immediately cease using and return to the applicable Governmental Entity any property (including Customer Property) or materials, whether tangible or intangible, provided by a Governmental Entity to Vendor or prepared or developed by Vendor for the Governmental Entity hereunder;
 - 9.6.3. Immediately return to the applicable Governmental Entity any payments made by the Governmental Entity for Services that were not rendered but paid or other Deliverables not provided by Vendor but paid.
- 9.7. Vendor Cooperation/Transition Services. Vendor agrees that in connection with any termination or expiration of any Purchasing Instrument for SaaS Applications and related Cloud Services, Vendor shall, at Vendor's sole expense, ensure that any and all Customer Data stored or contained in any applications, systems, or related databases supplied by Vendor shall be available for export from such applications, systems, or related databases by the Governmental Entity, subject to the retention and destruction obligations set forth in this Agreement. In addition, Vendor agrees that, to the extent requested by Customer, Vendor will assist Customer in transitioning from Vendor's Deliverables back to the applicable Governmental Entity or any Authorized Contractor hired or utilized by the Applicable Governmental Entity to provide any replacement or similar Deliverables (the "**New Contractor**") ("**Transition Services**") and, notwithstanding any such termination or expiration, will continue to license any SaaS Applications and related Cloud Services to Customer at the rates and pursuant and subject to the terms and conditions set forth herein and as is necessary for the Customer to effectively transition from the same. Such Transition Services shall be pursuant to a mutually-agreed-upon Purchasing Instrument on a time-and-materials basis at the Hourly Rates in the "**Kronos Incorporated US Communities Pricebook 01182019**," available at <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/kronos> or any successor webpage thereto (as updated from time to time in accordance with the terms and conditions of the OMNIA Contract). To the extent requested by Customer, Vendor will use its commercially efforts

to enter into such a mutually agreed upon Purchasing Instrument for Transition Services and, to the extent the Parties are able to enter into such a Purchasing Instrument, Vendor will use its commercially reasonable efforts to effect a smooth and timely transition and to ensure there is no interruption of any Deliverables. Vendor agrees that it will perform all transition services in good faith and in a professional and businesslike manner. Vendor shall be relieved of all obligations related to Transition Services and continuing to license any SaaS Applications and related Cloud Services if the Customer does not continue to pay for same.

9.8. Survival, Expiration or termination of this Agreement or a Purchasing Instrument for any reason will not release either Party from any liabilities or obligations set forth in this Agreement which:

9.8.1. The Parties have expressly agreed in writing survive any such expiration or termination, including the following Sections:

9.8.1.1. 4 (Compensation and Additional Rights and Remedies);

9.8.1.2. 7 (Representations, Warranties, and Covenants);

9.8.1.3. 8 (Indemnification);

9.8.1.4. 9 (Default and Termination);

9.8.1.5. 10 (Confidentiality);

9.8.1.6. 11 (Security/Privacy, Business Continuity, and Disaster Recovery);
and

9.8.1.7. 12 (General Provisions).

9.8.2. Remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

10. Confidentiality.

10.1. Vendor's Treatment of Confidential Information. Contractor, Vendor Contractors, and Vendor Personnel may have access to Confidential Information, data, software, hardware, programs or other information or property possessed by, owned by, maintained by, of, belonging to, or originating with the Governmental Entities, a Customer(s), the State of Iowa, or other Governmental Entities in connection with this Agreement ("Customer Property") to the extent necessary to carry out its responsibilities under the Agreement. Such Customer Property shall at all times remain the property of the applicable Governmental Entity or Customer. Contractor shall preserve the confidentiality of Customer Property disclosed or furnished by Customers or Governmental Entities in connection with this Agreement and shall maintain reasonable and appropriate procedures for safeguarding such property. Contractor shall accept responsibility for providing adequate supervision and training to Vendor Contractors and Vendor Personnel to ensure compliance with the terms of this Agreement. Contractor and Vendor Contractors and Vendor Personnel may be required by a Customer or applicable Governmental Entities to execute confidentiality or non-disclosure agreements to obtain access to certain Customer Property. Contractor, Vendor Contractors, and Vendor Personnel shall not disclose, publish, reproduce, disseminate or otherwise use any Customer Property received, collected, maintained, or used in the course of performance of the Agreement except as permitted by the applicable Customer or appropriate Governmental Entity to enable Contractor to perform its obligations under this Agreement and except as required by applicable laws, rules or regulations, either during the term of this Agreement or

thereafter. Contractor agrees to return any and all Customer Property received, collected, accessed, maintained, created, or used in the course of the performance of the Agreement in whatever form it is maintained promptly (but in no event later than ten (10) business days from the date of the applicable Governmental Entity's or any Customer's written request) at the request of the applicable Governmental Entity or any Customer. In the event that Contractor receives a request for access to any Customer Property, Contractor shall immediately communicate such request to the appropriate Governmental and the applicable Customer for consideration and handling.

- 10.2. *Compelled Disclosures.* To the extent required by applicable law or by lawful order or requirement of a court or governmental authority of competent jurisdiction over Vendor, Vendor may only disclose Customer Property to a Third Party in accordance with such law, order, or requirement, subject to the following conditions:
- 10.2.1. As soon as becoming aware of such law, order, or requirement, and no-less-than five (5) business days prior to disclosing Customer Property pursuant thereto, Vendor will notify the applicable Governmental Entity in writing, specifying the nature of and circumstances surrounding the contemplated disclosure, and forward any applicable process, including a subpoena, to the appropriate Governmental Entity for its review.
 - 10.2.2. Vendor will consult with the applicable Governmental Entity on the advisability of taking legally-available steps to resist or narrow any required response or disclosure.
 - 10.2.3. Vendor will use reasonable efforts not to release Customer Property pending the outcome of any measures taken by the applicable Governmental Entity to contest, oppose, or otherwise seek to limit such disclosure by Vendor.
 - 10.2.4. Solely to the extent Vendor is required to disclose Customer Data to a Third Party, Vendor will furnish only such portion of Customer Data as it is required to disclose.

Notwithstanding any such compelled disclosure by Vendor, such compelled disclosure will not otherwise affect Vendor's obligations hereunder with respect to Customer Property so disclosed as it pertains to other Third Parties to which such information is not disclosed as required by such law, order, or requirement.

10.3. Treatment of Vendor's Confidential Information.

- 10.3.1. *Safeguarding Obligation.* Except as provided or contemplated herein, and subject to applicable state, federal, and/or international laws, rules, regulations, or orders (including Iowa Code Chapter 22 and any corresponding implementing rules, regulations, or orders), Governmental Entities shall not intentionally disclose Vendor's Confidential Information to a Third Party (excluding other Governmental Entities and Authorized Contractors) without the prior written consent of Vendor.
- 10.3.2. *Destruction or Return of Vendor's Confidential Information.* On termination or expiration of this Agreement or the applicable Purchasing Instrument, the applicable Governmental Entity shall, except to the extent otherwise required by applicable laws, rules, procedures, or record retention schedules/requirements, return or destroy, at Vendor's option, all of Vendor's Confidential Information (excluding items subject to any continuing licenses inuring to the benefit of the applicable Governmental Entity hereunder or that are required for use of any Deliverables and Goods or Products).

10.3.3. *Compelled Disclosures.* Notwithstanding and in addition to the foregoing, **Governmental Entities may disclose Vendor's Confidential Information:**

10.3.3.1. Pursuant to any legal, judicial, regulatory, or administrative proceedings, subpoena, summons, deposition, interrogatory, requests for documents, order, ruling, civil investigative demand, or other legal, administrative or regulatory processes;

10.3.3.2. Pursuant to any applicable laws, rules, or regulations;

10.3.3.3. If the applicable Governmental Entity reasonably determines such information is not a confidential record pursuant to Iowa Code Section 22.7 or other applicable laws, rules, and regulations; or

10.3.3.4. If the applicable Governmental Entity, in the Governmental Entity's sole discretion, determines Vendor has not provided or is unwilling to provide facts sufficient to enable the Governmental Entity to make a determination as to whether such information constitutes a confidential record under Iowa Code Section 22.7 or other applicable laws, rule, and regulations.

Prior to disclosing any of Vendor's Confidential Information as permitted above, a Governmental Entity shall provide reasonable notice to Vendor of the circumstances giving rise to such disclosure. In the case of any contemplated disclosure pursuant to Section 10.3.3.3 and 10.3.3.4, prior to disclosing any of Vendor's Confidential Information, a Governmental Entity shall provide Vendor with reasonable notice of the anticipated disclosure and reasonable opportunity for Vendor to seek and obtain an injunction preventing the Governmental Entity's disclosure of such Vendor Confidential Information.

10.4. Open Records and Electronic Discovery Requests and Records Retention. In the event that a Customer or other applicable Governmental Entity is subject to a subpoena, litigation discovery request, government inquiry, or public records request directed at Customer Data, Customer Content, or Customer Property that are within Kronos' control, Kronos will, at the Customer's or other applicable Governmental Entity's request, make commercially reasonable efforts to provide assistance to the Governmental Entity in responding to or complying with the request or requirement to the extent that it is technically feasible for Kronos to do so. The Customer or applicable Governmental Entity will reimburse Kronos for the costs that Kronos incurs to provide such assistance at the rates and pursuant to the terms and conditions set forth herein, such as, in the case of Professional Services, at the Hourly Rates in the "**Kronos Incorporated US Communities Pricebook 01182019,**" available at <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/kronos> or any successor webpage thereto (as updated from time to time in accordance with the terms and conditions of the OMNIA Contract).. Subject to the above, Kronos will produce the relevant data or documents. In so doing, Vendor will take all steps necessary to ensure Customer Data or Customer Content is stored, maintained, and provided in its original state so as to not create any spoliation, evidentiary, or electronic discovery issues. Except if legally required to do so, or to the extent Customer or an applicable Governmental Entity continues to license any SaaS Applications and related Cloud Services to Customer at the rates and pursuant to the terms and conditions set forth herein (including beyond the expiration or termination of this Agreement where necessary), 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.

- 10.5. Non-Exclusive Equitable Remedy. Each Party acknowledges and agrees that due to the unique nature of Confidential Information there may be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may allow a Party or Third Parties to unfairly compete with the other Party resulting in irreparable harm to such Party, and therefore, that upon any such breach or any threat thereof, each Party, including any Governmental Entity, will be entitled to appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of this Section will constitute a material breach of this Agreement and be grounds for immediate termination of the applicable Purchasing Instrument in the exclusive discretion of the non-breaching Party. In the event of a breach of this Section by Vendor, the OCIO may terminate this Agreement, or the applicable Customer may terminate an applicable or related Purchasing Instrument, immediately without notice of default and opportunity to cure.
- 10.6. Survives Termination. Each Party's duties as set forth in this Section shall survive termination of this Agreement and shall apply to all acts or omissions taken or made in connection with Vendor's, Vendor Contractor's, or Vendor Personnel's performance of this Agreement regardless of the date any potential claim is made or discovered by a Governmental Entity.

11. Security/Privacy, Business Continuity, and Disaster Recovery.

- 11.1. Vendor will implement and maintain reasonable and appropriate administrative, technical, and physical safeguards for the protection of the security, confidentiality and integrity of Customer Data/Customer Content. Such safeguards are updated from time to time by Vendor in an effort to remain consistent with recognized industry standards and controls. Details of such safeguards are available in Vendor's current security due diligence packages for the applicable offerings. These due diligence packages are available upon request by, and at no cost to, the applicable Governmental Entity and are considered Vendor Confidential Information under this Agreement. In addition, Vendor represents, warrants, and covenants that such security safeguards shall at all times during the term of this Agreement comport with or otherwise be consistent with any security standards, frameworks, or compliance regimes identified or referenced in any product-specific Special Terms and Conditions or, where applicable, related cloud guidelines applicable to the corresponding Deliverables purchased hereunder, and that ensuring that any Deliverables purchased hereunder perform in accordance with such identified or referenced security standards, frameworks, or compliance regimes is a contractual obligation of Vendor's hereunder. With respect to the Workforce Telestaff IVR service that is the subject of Special Conditions 004, the Workforce Telestaff IVR service relies upon a Third Party hosted communication platform. Accordingly, notwithstanding any other provision of the Agreement to the contrary, Customer understands and acknowledges that the exclusive statement of the security protections provided for i) Interactions by Customer and its employees through Workforce Telestaff IVR, and ii) all associated data, is found at: <https://www.aspect.com/privacy-policy>, under the heading "Information Security".
- 11.2. Kronos will notify OCIO and the applicable Governmental Entity upon becoming aware of an actual or suspected Security Breach involving Customer Data/Customer Content.

To the extent reasonably possible, such a notification will include, at a minimum (i) a description of the Security Breach, (ii) the information that may have been obtained as a result of the Security Breach, and (iii) the corrective action Kronos is taking in response to the Security Breach. Such notification must be in writing and given in the most expedient time possible and without unreasonable delay, and in no circumstances in less than forty-eight (48) hours of discovery or notification of the actual or suspected Security Breach. For purposes of this Section 11.2, a suspected Security Breach shall not include routine unsuccessful security incidents such as pings on a firewall, port scans, or denial-of-service attacks that do not result in the unauthorized access, use, disclosure, modification, or destruction of information or systems operations in an electronic information system.

- 11.3. *Investigations in Response to Actual Breach.* Vendor agrees, at its sole expense, to take all reasonable steps necessary to promptly remedy any actual Security Breach and to reasonably cooperate with the applicable Governmental Entity and OCIO in investigating such actual Security Breach, including reviewing and assisting in reviewing application access logs, conducting forensic audits of relevant systems if necessary, and making personnel available to answer reasonable inquiries concerning the investigation. On notice of any actual Security Breach, Vendor will immediately institute appropriate controls to maintain and preserve all electronic evidence relating to such actual Security Breach in accordance with industry standard practices. Vendor agrees that it will not report the Security Breach to any regulatory authority or notify any adversely affected consumers relating to any actual Security Breach unless and until the applicable Governmental Entity specifically requests Vendor do so in writing or if required by applicable law.
- 11.4. *Encryption at Rest.* All Customer Data stored, processed, transmitted, or otherwise possessed by Vendor shall be encrypted at rest with controlled access and the Application Services and related Cloud Services shall use TLS 1.2 or higher as determined by the level of encryption supported by the Customer's browser. Unless otherwise expressly provided herein or otherwise agreed to by the Parties in writing, Vendor, Vendor Contractors, and Vendor Personnel are responsible for encryption of Customer Data in their possession. Additionally, Vendor shall ensure hard drive encryption consistent with validated cryptography standards for all Customer Data at rest using AES-256 bit encryption, unless the State approves in writing the storage of Customer Data on a portable device that does not satisfy these standards.
- 11.5. *Physical and Remote Access to State-hosted/managed Systems.* Vendor's, Vendor Contractor's, or Vendor Personnel's physical or remote access to State facilities or State-hosted/managed systems shall be subject to the State of Iowa's standard security procedures and protocols governing such access, including but not limited to, in the case of remote access to State-hosted/managed systems, active monitoring of Vendor's, Vendor Contractor's, or Vendor Personnel's remote access to the same.
- 11.6. Additional Hosting Terms. In addition to other terms herein (including Section 10 and all of this Section 11) that would be applicable to hosting, infrastructure, other "as a service" delivery models, or other similar Services, and solely to the extent Vendor stores, processes, transmits, retains, or otherwise maintains Customer Data on a Governmental Entity's behalf, the following shall apply:
 - 11.6.1. *Import and Export of Data.* To the extent Customer Data is stored, retained, or otherwise maintained in electronic format in connection with any hosting, infrastructure, or other similar Services, the applicable Governmental Entity or its Authorized Contractors shall have the ability to import or export data or

information, including Customer Data, in whole or in part to or from such services, at no charge. In the event a Governmental Entity is unable to successfully import or export data and information in whole or in part, Vendor shall assist the Governmental Entity in doing so. Any such assistance will be pursuant to a mutually-agreed-upon Purchasing Instrument on a time-and-materials basis at the Hourly Rates in the “**Kronos Incorporated US_Communities Pricebook 01182019**,” available at <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/kronos> or any successor webpage thereto (as updated from time to time in accordance with the terms and conditions of the OMNIA Contract). To the extent requested by Customer, Vendor will use its commercially efforts to enter into such a mutually agreed upon Purchasing Instrument for purposes of assisting Customer in importing and exporting Customer Data and, to the extent the Parties are able to enter into such a Purchasing Instrument, Vendor will use its commercially reasonable efforts to assist Customer with any such import or export. Vendor agrees that it will perform any such import or export Services in good faith and in a professional and businesslike manner.

- 11.6.2. *Retention of Customer Data.* Vendor agrees that in connection with any termination or expiration of this Agreement, Vendor shall not take any action to erase any Customer Data prior to the expiration of applicable timeframe(s) specified in the applicable product-specific Special Terms and Conditions applicable to the corresponding Deliverables purchased hereunder or as otherwise required by this Agreement. In addition, and notwithstanding anything to the contrary in any Special Terms and Conditions, Vendor shall not take any action to erase any Customer Data to the extent Customer or an applicable Governmental Entity continues to license any SaaS Applications and related Cloud Services in connection with any transition under Section 9.7 (Vendor Cooperation/Transition Services) or any open records or electronic discovery requests under Section 10.4 (Open Records and Electronic Discovery Requests and Records Retention), including beyond the expiration or termination of this Agreement where necessary.
- 11.6.3. *Ongoing Security Testing.* Vendor will periodically test its systems for potential areas where security could be breached, including conducting vulnerability scans and penetration tests. Vendor shall provide evidence of the penetration test and vulnerability scans as described in the Vendor’s annual SOC 2 report.
- 11.6.4. *Security Audit by OCIO.* During the term, OCIO or its Authorized Contractor(s) may perform security audits upon reasonable notice and through mutually agreed upon coordination with Vendor’s Information Security Team. 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 non-application activities logs.

11.7. Personnel Safeguards.

11.7.1. *Background Checks.*

- 11.7.1.1. Additional Screening. Governmental Entities reserve the right to subject Vendor Personnel who will be providing Professional Services to additional background checks at any time prior to or during any engagement, provided such Vendor Personnel consent to such additional background checks. Such background checks may include a work history, financial review, request for criminal history data, or local or state criminal history check, national criminal history check through the Federal Bureau of Investigation (“FBI”), or other background check requirement imposed by law, rule, regulation, order, or policy. Such Vendor Personnel may be required to authorize the release of the results of criminal history checks, including those through the FBI, to one or more Governmental Entities, including OCIO. Such background checks may be conducted by the applicable Governmental Entity or its Authorized Contractor. A Governmental Entity may also require Vendor to conduct a work history or financial review of Vendor Personnel who will be providing Professional Services. If applicable, Vendor shall provide Governmental Entities with these background check results in a mutually agreeable form and manner prior to the commencement of any engagement by Vendor Personnel.
- 11.7.1.2. Vendor shall be responsible for payment of all costs associated with any and all Vendor initiated background checks to which Vendor Personnel are subjected.
- 11.7.1.3. Vendor shall additionally be responsible for payment of all costs associated with any and all background checks to which Vendor Personnel are subjected by a Governmental Entity or its authorized Contractor in any amount up to and including \$500.00 per Vendor Personnel. In the event the cost of a Governmental Entity or Authorized Contractor background check exceeds the \$500.00 per Vendor Personnel threshold, the Governmental Entity or Authorized Contractor shall be responsible for payment of any such excess costs.

11.7.2. *Right to Remove Individuals.*

- 11.7.2.1. Professional Services. As it relates to any Professional Services provided hereunder, should a Governmental Entity be dissatisfied with the performance, competence, responsiveness, capabilities, cooperativeness, or fitness for a particular task of any Vendor Personnel, the Governmental Entity may request the replacement of such Vendor Personnel (“**Replacement Request**”). The Replacement Request shall be in writing and upon receipt of the request, Vendor shall make reasonable efforts to furnish a qualified and acceptable replacement within fifteen (15) business days.
- 11.7.2.2. All Deliverables. As it relates to all Deliverables (including SaaS Applications and related Cloud Services), should a Governmental

Entity determine an individual Vendor Personnel poses a potential security risk based on a specific identified incident, the Governmental Entity may request the replacement of such Vendor Personnel ("**Replacement Request**"). Vendor shall immediately remove such individual; any replacement furnished by Vendor in connection with such a request may not perform or provide Deliverables to the applicable Governmental Entity unless and until the applicable Governmental Entity gives its consent to Vendor's use of such replacement. The Replacement Request shall be in writing and upon receipt of the request, Vendor shall make reasonable efforts to furnish a qualified and acceptable replacement within fifteen (15) business days.

- 11.7.3. *Security Awareness Training.* Vendor shall promote and maintain an awareness of the importance of securing Customer Property, including Customer Data, among Vendor Personnel.
- 11.7.4. *Separation of Job Duties.* Vendor shall diligently monitor and enforce separation of job duties, require all Vendor Contractors and Vendor Personnel to execute non-disclosure agreements or enforce obligations of confidentiality, and limit access to and knowledge of Customer Property to those Vendor Personnel to which such access and knowledge is absolutely necessary to provide Deliverables hereunder.
- 11.8. Business Continuity/Disaster Recovery. Vendor maintains a formal program that requires business continuity and disaster recovery plans to be in place for critical operations and technology, which may be updated by Vendor from time to time. Details of such business continuity and disaster recovery program is as described in Vendor's current due diligence packages for the applicable offerings. These due diligence packages are available upon request by, and at no cost to, the applicable Governmental Entity and are considered Vendor Confidential Information under this Agreement. Vendor represents to having and maintaining an industry standard business continuity plan as described in the due diligence packages. Vendor reserves the right to modify the business continuity plan as needed, however Vendor shall not materially diminish the business continuity plan provided to Customer as of the Effective Date of this Agreement. Governmental Entities making purchases hereunder may include specific or additional obligations of Vendor as it relates to business continuity or disaster recovery where necessary as may be stated and provided for in an applicable Purchasing Instrument.

12. General Provisions.

12.1. Ancillary Agreements.

- 12.1.1. Ancillary Agreements and Non-Disclosure Agreements. In order to proceed with a Purchasing Instrument, Governmental Entities making purchases hereunder may require Vendor to execute ancillary agreements to address any compliance, legal, confidentiality, or privacy concerns that may be unique to an applicable Governmental Entity making purchases hereunder, such as a Business Associate Agreement ("**BAA**") or Criminal Justice Information System ("**CJIS**") Security Addendum, or any other non-disclosure or confidentiality agreements in connection with this Agreement or any related agreement deemed necessary by the applicable Governmental Entity ("**Ancillary Agreement(s)**"). Such Ancillary Agreements shall be attached as

Special Terms and Conditions hereto and incorporated by reference as if fully set forth herein. Vendor may decline to execute such Ancillary Agreements and acknowledges that the Governmental Entity may not be able to proceed with a Purchasing Instrument as a result.

- 12.1.2. To the extent a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, the requirements set forth at Title 2 CFR, Chapter II, OMB Guidance Part 200, Uniform Administrative Cost Requirements, Cost Principles, and Audit Requirements for Federal Awards (“**Super Circular**”) may apply. To the extent the Super Circular requires any language or requirements be included in any agreement, such requirements and language are incorporated by reference as if fully set forth herein. In addition, in order to proceed with a Purchasing Instrument, Governmental Entities making purchases hereunder may require Vendor to execute ancillary agreements to address any additional requirements that may accompany the specific funding source used to pay for the Deliverables hereunder (“**Ancillary Agreement(s)**”). Such Ancillary Agreements may be attached as Special Terms and Conditions to the applicable Purchasing Instrument and, if so attached, shall apply to and govern the purchase, delivery, or provisioning of the applicable Deliverables. Vendor may decline to execute such Ancillary Agreements and acknowledges that the Governmental Entity may not be able to proceed with a Purchasing Instrument as a result.
- 12.2. Immigration Status. Vendor and Vendor Contractors are responsible for ensuring Vendor Personnel possess and maintain valid Visas for any Vendor Personnel for whom a Visa is required. Governmental Entities may require Vendor to conduct E-Verify employment-eligibility verifications of Vendor Personnel performing duties within the State of Iowa or where otherwise required by applicable law, rule, or regulation. Vendor shall be responsible for all costs associated with the E-Verify process, and shall provide written confirmation that such E-Verify verifications have occurred with respect to individual personnel where requested by a Customer, including in advance of any engagement hereunder.
- 12.3. No Publicity. During the Term of this Agreement and at all times after the termination or expiration of this Agreement, Vendor, Vendor Contractors, and Vendor Personnel shall not make any media release or other public announcement relating to or referring to this Agreement or a Purchasing Instrument without OCIO’s or the applicable Governmental Entity’s prior written consent. Vendor, Vendor Contractors, and Vendor Personnel shall acquire no right to use, and shall not use, without OCIO’s or the applicable Governmental Entity’s written consent, the terms or existence of this Agreement or any Purchasing Instrument, the names, trade names, trademarks, service marks, artwork, designs, or copyrighted materials of the State of Iowa or any Governmental Entity, its related entities, employees, assigns, successors or licensees: (a) in any advertising, publicity, press release, customer list, presentation or promotion; (b) to express or to imply any endorsement of Vendor or Vendor’s Deliverables by the State of Iowa or any Governmental Entity; or (c) in any manner other than expressly in accordance with this Agreement.
- 12.4. Independent Contractor. Vendor is an independent contractor performing services for Governmental Entities.
 - 12.4.1. Vendor, Vendor Contractors, and Vendor Personnel shall not hold itself out as an employee or agent of the any Governmental Entities.

- 12.4.2. Except as otherwise provided herein or in a Purchasing Instrument, Vendor or Vendor Contractors shall be responsible for maintaining and furnishing a place of work, and any tools, supplies, apparel, facilities, equipment, and appropriate communications devices and services required for Vendor Personnel to perform and provide Deliverables hereunder.
- 12.4.3. Vendor Personnel are not eligible for and Vendor shall ensure Vendor Personnel never claim they are eligible for or otherwise entitled to any State employee benefits, including retirement benefits, insurance coverage, or the like.
- 12.4.4. Vendor Personnel shall not be considered employees of any Governmental Entity for any purpose, including for federal or State tax purposes. Governmental Entities shall not withhold taxes on behalf of Vendor. Vendor shall be responsible for payment of all taxes in connection with any income earned from performing this Agreement.
- 12.4.5. Governmental Entities shall have no right or authority to direct or control Vendor Personnel with respect to the performance or provisioning of Deliverables under this Agreement, or with respect to any other matter, except as otherwise provided by this Agreement or a Purchasing Instrument. Governmental Entities are interested only in the results to be achieved by Vendor under this Agreement; the manner and method of performing and providing all Deliverables under this Agreement shall be under the exclusive control of Vendor, in accordance with the terms of this Agreement.
- 12.4.6. During any engagement under this Agreement, Vendor Personnel may perform work on behalf of, and provide Deliverables to, Third Parties, and may market and advertise their services to Third Parties, so long as such activities do not: (a) violate any terms or conditions of this Agreement; (b) create an actual or potential conflict of interest; or (c) violate any intellectual property rights or interests of any Governmental Entity making purchases hereunder.
- 12.4.7. The Parties acknowledge and agree that Governmental Entities will not have the authority to hire, fire, supervise, control, or manage any Vendor Personnel.
- 12.4.8. Vendor Personnel shall not receive performance reviews, vocational training, or business cards from any Governmental Entity; shall clearly state in any and all communications related to the performance or provisioning of Deliverables hereunder that they are employees of Vendor or Vendor Contractor, and not employees of the applicable Governmental Entity; and shall not be subject to the Governmental Entity's standard disciplinary practices and procedures.
- 12.5. Amendments. This Agreement may be amended, modified, or replaced from time to time by mutual consent of OCIO and Vendor. Both Parties must execute all amendments to this Agreement in writing.
- 12.6. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. This Agreement is intended only to benefit the OCIO, Vendor, other Governmental Entities making purchases hereunder, and their respective successors and permitted assigns.

- 12.7. Choice of Law and Forum. This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with this Agreement, including after expiration or termination of this Agreement, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Vendor irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with or arising out of this Agreement shall be brought and maintained exclusively in the aforesaid courts; (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts; and (iii) waives any objection to such jurisdiction based on forum non conveniens or otherwise. This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to any Governmental Entity, including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise. Vendor irrevocably consents to service of process by certified or registered mail addressed to Vendor's designated agent. Vendor has currently appointed C T Corporation System, 400 East Court Avenue, Suite 110, Des Moines, Iowa 50309 as its agent to receive service of process. If for any reason Vendor's agent for service is unable to act as such or the address of the agent changes, Vendor shall immediately appoint a new agent and provide OCIO and any Governmental Entities making purchases hereunder with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by OCIO and the applicable Governmental Entity. Nothing in this provision will alter the right of OCIO or any other Governmental Entity to serve process in any other manner permitted by law. This Section shall survive termination of this Agreement.
- 12.8. Assignment and Delegation. This Agreement may not be assigned, transferred, or conveyed in whole or in part without the prior written consent of the other Party, except that OCIO may assign, transfer, or convey this Agreement, in whole or in part, to any Governmental Entity that succeeds OCIO's duties hereunder or otherwise assumes responsibility for functions or duties currently assumed by OCIO. Likewise, individual Purchasing Instruments may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other Party, except that the applicable Governmental Entity may assign, transfer, or convey the applicable Purchasing Instrument, in whole or in part, to any Governmental Entity that succeeds the applicable Governmental Entity's duties thereunder or otherwise assumes responsibility for functions or duties currently assumed by that Governmental Entity to which the Deliverables relate. For purposes of construing this clause, a transfer of a controlling interest in Vendor, a merger, sale or consolidation of Vendor, or a sale of substantially all of Vendor's assets shall be considered an assignment. Vendor agrees that it shall provide OCIO and any Governmental Entities making purchases hereunder with the earliest possible advance notice of any proposed sale or transfer or any controlling interest in or substantial assets of Vendor and of any proposed merger, sale or consolidation of Vendor. Vendor agrees that it shall not use this Agreement, or any portion thereof, for collateral or to otherwise secure any financial obligation of Vendor or any affiliate thereof without the prior written consent of OCIO or the applicable Governmental Entity. Vendor further agrees that it may not assign, pledge as collateral, grant a security interest in, create a lien

against, or otherwise encumber any payments that may or will be made to Vendor under this Agreement.

- 12.9. Use of Third Parties. None of the Deliverables to be provided by Vendor pursuant to this Agreement shall be subcontracted or delegated to any Third Party, including Vendor Contractors, without the prior written consent of the applicable Governmental Entity. Such consent shall not be deemed in any way to provide for the incurrence of any additional obligation of a Governmental Entity, whether financial or otherwise. Any subcontract to which a Governmental Entity has consented shall be in writing and shall in no way alter the terms and conditions of this Agreement. All subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the applicable Governmental Entity may deem necessary. Vendor is solely liable for any and all payments that may be due to Vendor Contractors pursuant to any subcontract. Vendor shall indemnify and hold harmless the State, OCIO, and any Governmental Entity and their officers, directors, employees, officials, and agents from and against any and all claims, demands, liabilities, suits, actions, damages, losses, taxes, penalties, costs and expenses of every kind and nature whatsoever arising out of, resulting from, or in any way related to Vendor's breach of any subcontract into which it enters, including Vendor's failure to pay any and all amounts due to any Vendor Contractor. In addition, the State, OCIO, and any Governmental Entity is not responsible for any failure of any Vendor Contractors to pay any amounts that may be due Vendor, and Vendor may not refuse to perform its obligations under this Agreement for any such failure. If Vendor fails, neglects, or refuses to pay promptly, as due, any claim for labor or services furnished to Vendor or any subcontractor by any person in connection with Deliverables performed or provided under this Agreement, the applicable Governmental Entity may pay such claim and charge the amount of the payment against funds due or to become due Vendor under this Agreement. The payment of a claim in such manner shall not relieve Vendor or its surety from any obligation with respect to any unpaid claims. All subcontracts shall contain provisions which allow Governmental Entities making purchases hereunder to access the subcontractor's books, documents, and records and for inspections of work, as required of Vendor herein. No subcontract or delegation of work shall relieve or discharge Vendor from any obligation, provision, or liability under this Agreement. Vendor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any Vendor Contractors. Any action of a Vendor Contractor, which, if done by Vendor, would constitute a breach of this Agreement, shall be deemed a breach by Vendor and have the same legal effect. The term "**Vendor**" as used in this Agreement shall, unless the context clearly requires to the contrary, be deemed to include Vendor Contractors and Vendor Personnel. In furtherance of the foregoing, the State, OCIO, and each Governmental Entity entering into a Purchasing Instrument hereunder hereby agrees that Kronos may use sub-processors to fulfill its contractual obligations under the Agreement in order to deliver the SaaS Applications and Cloud Services, and hereby authorizes the engagement as sub-processors of all such entities. The State, OCIO, and each Governmental Entity entering into a Purchasing Instrument further generally authorizes the engagement as sub-processors of any other Third Parties engaged by Kronos for such purposes. The foregoing authorizations will constitute prior written consent to the subcontracting by Kronos of the processing of Customer Data or Customer Content. When engaging any sub-processor: (a) Kronos will enter into a written agreement with the sub-processor; (b) Kronos will ensure that the subprocessor provides sufficient guarantees to implement appropriate technical and organizational measures to meet the requirements of applicable data protection laws and this Agreement; and, (c) Kronos will remain fully responsible for the performance of the sub-processor's data

protection obligations pursuant to such written agreement, the requirements of applicable data protection laws, and in accordance with the terms and conditions of this Agreement.

12.10. Integration and Order of Priority.

12.10.1. *Integration.* This Agreement represents the entire agreement between the Parties concerning the subject matter hereof, and neither Party is relying on any representation that may have been made which is not included in this Agreement. No Governmental Entity shall be bound by any “shrink-wrap” agreement, “click-wrap” agreement, “browser-wrap” agreement, or “sneakwrap” agreement, or any other similar agreement unless agreed to in the Kronos Marketplace for either the Workforce Dimensions or Workforce Ready offerings. Vendor acknowledges that it has thoroughly read this Agreement and all related Special Terms and Conditions, Ancillary Agreements, schedules, exhibits, and other like documents and has had the opportunity to receive competent advice and counsel necessary for it to form a complete understanding of all rights and obligations herein and to accept the same freely and without coercion of any kind. Accordingly, this Agreement shall not be construed or interpreted against any Governmental Entity on the basis of draftsmanship or preparation thereof.

12.10.2. *Order of Priority.* In the case of any conflict or inconsistency between the specific provisions of this Umbrella Agreement, any and all attachments to this Umbrella Agreement, such conflict or inconsistency shall be resolved in the order as stated on the CD&E. In addition, notwithstanding anything in this Agreement to the contrary, any pre-printed legal terms or conditions included on or set forth in any Purchasing Instrument, whether expressed or referenced, shall be void and unenforceable; this includes any terms or conditions that conflict with or are inconsistent with the terms, conditions, obligations, requirements, or liabilities set forth in this Agreement, including any Special Terms or Conditions or the Omnia Contract. In addition, notwithstanding anything in this Agreement to the contrary (including as may be stated in any Special Terms or Conditions, the Omnia Contract, or any Purchasing Instrument, or any other related agreement or terms and conditions) the following Sections of this Umbrella Agreement may not be superseded, modified, supplemented, or otherwise altered:

12.10.2.1. Section 7.1 (Compliance with Law) of this Umbrella Agreement;

12.10.2.2. Section 8 (Indemnification) of this Umbrella Agreement;

12.10.2.3. Section 9 (Term and Termination) of this Umbrella Agreement;

12.10.2.4. Section 10 (Confidentiality) of this Umbrella Agreement;

12.10.2.5. Section 12 (General Provisions) of this Umbrella Agreement.

12.10.2.6. Section 13 (Limitation of Liability) of this Umbrella Agreement.

12.10.2.7. Section 13A (Security Breach SuperCap) of this Umbrella Agreement.

- 12.11. Supersedes Former Agreements. This Agreement supersedes all prior Agreements between the State of Iowa and Kronos for the Deliverables provided hereunder. For the avoidance of doubt, to the extent Kronos is performing or providing Deliverables under active Orders or Statements of Work, or other like ordering documents, under any prior, former, or similar agreement between the State of Iowa and Kronos, Kronos's performance or provisioning of such Deliverables under such instruments shall proceed and be transitioned under the terms and conditions of this Agreement.
- 12.12. Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the applicable Governmental Entity and Vendor, failure by a Governmental Entity or Vendor at any time to require performance by the other Party or to claim a breach of any provision of this Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the Parties hereto.
- 12.13. Notices. Notices under this Agreement shall be in writing and delivered to the representative of the Party to receive notice (identified below) at the address of the Party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of delivery of such notice (not the date of mailing) which may be affected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS:

If to the State:

Attn: Business Services Division Administrator

Iowa Office of the Chief Information Officer

Hoover State Office Building, Level B

Des Moines, IA 50319

If to Vendor:

Kronos Incorporated (or Kronos SaaS, Inc.) as appropriate.

Attn: Legal Department

900 Chelmsford Street

Lowell, MA 01851

If to another Governmental Entity: the individual/address specified in the applicable Purchasing Instrument.

Any notice or communication sent by certified U.S. Mail under this Agreement shall be deemed given upon receipt as evidenced by the U.S. Postal Service return receipt card, or if sent by overnight delivery service, upon receipt as evidenced by the signature attained.

by the carrier. From time to time, the Parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

- 12.14. Cumulative Rights. The various rights, powers, options, elections, and remedies of OCIO, the State, and Governmental Entities provided for in this Agreement shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed by law, and shall in no way affect or impair the right of OCIO, the State, and Governmental Entities to pursue any other contractual, equitable, or legal remedy to which they may be entitled. The election by OCIO, the State, or any Governmental Entity of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.
- 12.15. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.
- 12.16. Time is of the Essence. Solely to the extent indicated in a Purchasing Instrument, time is of the essence with respect to Vendor's performance of its obligations under this Agreement. Vendor shall ensure that all Vendor Contractors and Vendor Personnel providing Deliverables hereunder are responsive to the applicable Governmental Entity's requirements and requests in all respects.
- 12.17. Authorization. Vendor represents and warrants that it has the right, power, and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Agreement, and this Agreement constitutes a legal, valid, and binding obligation of Vendor, enforceable in accordance with its terms.
- 12.18. Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns, and legal representatives.
- 12.19. Records Retention and Access. Vendor shall maintain books, documents and records that sufficiently and properly document Vendor's performance under this Agreement, including records that document all fees and other amounts charged during the term of this Agreement, for a period of at least five (5) years following the later of the date of final payment, termination or expiration of this Agreement, or the completion of any required audit. Vendor shall permit the Auditor of the State of Iowa or any authorized representative of the State, the auditor of any Governmental Entity making purchases hereunder or any authorized representative thereof, and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, at no charge, to access and examine, audit, excerpt and transcribe any pertinent books, documents, electronic or optically stored and created records or other records of Vendor relating directly or indirectly to Vendor's performance under this Agreement. Vendor shall not impose a charge or seek payment for any fee, charge, or expense associated with any audit or examination of such books, documents and records. Vendor shall require Vendor Contractors to agree to the same provisions of this section.
- 12.20. Headings or Captions and Terms. The section headings or captions are for identification purposes only and do not limit or construe the contents of the sections. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular,

references to the singular include the plural, and the word “or” has the inclusive meaning represented by the phrase “and/or.” The words “include” and “including” shall be deemed to be followed by the phrase “without limitation.” The words “thereof,” “herein,” “hereunder,” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

- 12.21. Multiple Counterparts. This Agreement, individual Purchasing Instruments, Special Terms and Conditions, or other like documents that are executed or may be executed hereunder or in connection herewith, including any amendments to any of the foregoing, may be executed in several counterparts, all of which when taken together shall constitute one contract binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of such documents so executed shall constitute an original. Signatures on such documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures, with such scanned and electronic signatures having the same legal effect as original signatures. Such documents may be accepted, executed, or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act (“**E-Sign Act**”), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act, codified at Iowa Code chapter 554D (“**UETA**”), or any other applicable state law, rule, policy, standard, directive, or order. Any document accepted, executed, or agreed to in conformity with such laws, rules, policies, standards, directives, or orders will be binding on the signing Party as if it were physically executed. All Parties acknowledge and agree that they will not contest the validity or enforceability of any such document(s), including under any applicable statute of frauds, because they were accepted, signed, or transmitted in electronic form. All Parties further acknowledge and agree that they will not contest the validity or enforceability of a signed scanned or facsimile copy of any such document(s) on the basis that it lacks an original handwritten signature, or on the basis that the Parties were not signatories to the same counterpart.
- 12.22. Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of the partnership, joint venture (or other association of any kind or agent/principal relationship) between the Parties hereto. No Party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon, another Party to this Agreement.
- 12.23. Attachments. The Parties agree that if an Addendum, Attachment, Rider, Schedule, Appendix, or Exhibit is attached hereto by the Parties, and referred to herein, then the same shall be deemed incorporated herein by reference.
- 12.24. Further Assurances and Corrective Instruments. The Parties agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.
- 12.25. Reserved.
- 12.26. Force Majeure. Neither Party shall be in default under this Agreement if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a “force majeure.” The term “force majeure” as used in this Agreement includes an event that no human foresight could anticipate or which if

anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar catastrophic events or causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the Parties. "Force majeure" does not include: financial difficulties of Vendor or Vendor Contractors; claims or court orders that restrict Vendor's or Vendor Contractor's ability to perform or deliver the Deliverables contemplated by this Agreement; strikes; labor unrest; or supply chain disruptions. If delay results from a Vendor Contractor's conduct, negligence or failure to perform, Vendor shall not be excused from compliance with the terms and obligations of Vendor unless the Vendor Contractor is prevented from timely performance by a "force majeure" as defined in this Agreement. If a "force majeure" delays or prevents Vendor's performance, Vendor shall use its commercially reasonable efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Governmental Entity adversely affected. The Party seeking to exercise this provision and not perform or delay performance pursuant to a "force majeure" shall promptly notify the other Party of the occurrence and reason for the delay. The Parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which Vendor's performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

- 12.27. Material Breaches. The references in this Agreement to specific material breaches of this Agreement shall not be construed as implying that other breaches of this Agreement are not material.
- 12.28. Reserved.
- 12.29. Taxes. Vendor shall be responsible for paying any taxes incurred by Vendor in the performance of this Agreement. OCIO and the State are exempt from the payment of State sales and other taxes: https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/sales_tax_exempt_letter.pdf. Other Governmental Entities may be exempt from the payment of State sales and other taxes as well.
- 12.30. Title to Property. Title to all property, including Customer Property, furnished by a Governmental Entity to Vendor to facilitate the performance of this Agreement shall remain the sole property of that Governmental Entity. All such property shall only be used by Vendor for purposes of fulfilling its obligations under this Agreement and shall be returned to the applicable Governmental Entity upon the earliest of completion, termination, cancellation of this Agreement or the applicable Purchasing Instrument, or at the applicable Governmental Entity's request. Vendor acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided for in this Agreement, Vendor shall not disclose or use such property for any purpose, including pledging or encumbering it, selling or using it for monetary gain, using it to compile mailing lists, solicit business or pursue other business activities, or otherwise.
- 12.31. Exclusivity. This Agreement is not exclusive. During the term of this Agreement, any Governmental Entity making purchases hereunder may obtain similar or identical Deliverables from other vendors.

- 12.32. Award of Related Agreements. Governmental Entities making purchases hereunder may undertake or award supplemental or successor agreements for work related to this Agreement. Vendor shall cooperate reasonably with Authorized Contractors who may be engaged by a Governmental Entity in connection with this Agreement. Any reference herein to a Governmental Entity's designee or other like reference shall be deemed to include its Authorized Contractors. Vendor will ensure that any Vendor Contractors or Vendor Personnel will abide by this provision.
- 12.33. Sovereign Immunity. No Governmental Entity waives sovereign immunity or any other immunity available to it by entering into this Agreement and specifically retains and reserves the defense of sovereign immunity and all defenses available under State and federal laws, rules, and regulations for any claim arising out of or related to this Agreement.
- 12.34. Reserved.
- 12.35. Conflicts of Interest. Vendor represents, warrants, and covenants that no relationship exists or will exist during the term of the Agreement between Vendor and any Governmental Entities making Purchases hereunder that is or may constitute a conflict of interest or appearance of impropriety. To the extent applicable, the provisions of Iowa Code Chapter 68B shall apply to this Agreement and any Purchasing Instruments executed hereunder, and Vendor shall not engage in any conduct that would violate that chapter.
- 12.36. Use of this Agreement required for Participating Agencies/Compliance with State I.T. Standards, Policies, and Procedures.
- 12.36.1. Pursuant to Iowa Code sections 8B.21(1)(a) and 8B.24(3), which, respectively, authorize OCIO to "[a]pprov[e] information technology for use by agencies and other governmental entities," and to "develop policies and procedures that apply to all information technology goods and services acquisitions, and . . . ensure the compliance of all participating agencies," absent a waiver granted pursuant to Iowa Code section 8B.21(5) and corresponding implementing rules, unless otherwise directed by the OCIO, Participating Agencies are required to use this Agreement for the purchase of the Deliverables purchased from this Vendor.
- 12.36.2. Failure of a Participating Agency to follow the above requirement or any other I.T. Governance Document(s), in addition to any other remedies available under applicable law, rule, or regulation, may be barred from utilizing this Agreement or other agreements made available to Governmental Entities by OCIO. Upon a determination by OCIO that a Participating Agency has failed to comply with the requirements of this Section, or any other applicable I.T. Governance Document(s), OCIO may notify Vendor that the Participating Agency is barred from executing any new Purchasing Instruments hereunder, and Vendor shall not execute any new Purchasing Instruments with the Participating Agency through this or any other agreement unless or until Vendor receives authorization from OCIO to do so.
- 12.36.3. Notwithstanding the foregoing, this provision shall not apply to the following entities, which may, to the extent permitted by applicable law, rule, regulation, or order, enter into separate or competing contracts for the

purchase of the Deliverables available or described hereunder or other like or similar Deliverables and Goods or Products:

- 12.36.3.1. Any Governmental Entity, other than a Participating Agency;
- 12.36.3.2. The office of the governor or the office of an elective constitutional or statutory officer
- 12.36.3.3. The general assembly, or any office or unit under its administrative authority;
- 12.36.3.4. The judicial branch, as provided in Iowa Code section 602.1102;
- 12.36.3.5. The state board of regents and institutions operated under its authority.

13. Limitation of Liability. Except as otherwise set forth herein, and solely to the extent not prohibited by applicable laws, rules, regulations, orders, or policies: (a) the maximum liability of any Party under this Agreement shall be one (1) time the Contract Value ("**Contract Value**" is defined as the aggregate total compensation to be paid by the applicable Governmental Entity to Vendor under the applicable Purchasing Instrument executed by the individual Governmental Entity hereunder, including all renewals and extensions or other like continuation, thereof); and (b) no Party shall be liable to the other for consequential, incidental, indirect, special, or punitive damages; provided, however, under no circumstances shall the foregoing limitations apply to any losses, damages, expenses, costs, settlement amounts, legal fees, judgments, actions, claims, or any other liability arising out of or relating to:

- 13.1. Intentional torts, criminal acts, fraudulent conduct, intentional or willful misconduct, or the gross negligence, or bad faith of Vendor, Vendor Contractors, or any Vendor Personnel;
- 13.2. Death, bodily injury, or damage to real or personal property;
- 13.3. Any contractual obligations of Vendor or Vendor Contractors pertaining to indemnification; intellectual property; liquidated damages; or compliance with applicable laws, rules, or regulations;
- 13.4. Any contractual obligations of Vendor pertaining to confidential information, or any Security Breach caused, in whole or in part, by a breach by Vendor, Vendor Contractor, or Vendor Personnel of the duties or obligations in Section 11 (Security/Privacy, Business Continuity, and Disaster Recovery) above (Vendor's liability for which shall be separately subject to Section 13A (Security Breach Super Cap) below);
- 13.5. Any claims arising under provisions of the Agreement calling for indemnification of any Governmental Entity, including the State of Iowa, or any Indemnitee for third-party claims against any Governmental Entity, including the State of Iowa, or any Indemnitee for bodily injury to persons or for damage to real or tangible personal property caused by the Vendor's negligence or willful conduct.

Nothing in this Agreement, including Section 13 (Limitation of Liability), shall: (i) be construed as an admission, assumption or representation by any Governmental Entity, including the State of Iowa, that any limitation on Vendor's liability specified in this Section 13 (Limitation of Liability) is enforceable against the applicable Governmental Entity, including the State of Iowa, under

applicable law or that any Governmental Entity, including the State of Iowa, has the authority to agree to the limitation on Vendor's liability specified in this Section 13 (Limitation of Liability); (ii) prevent any Governmental Entity, including the State of Iowa, from challenging the enforceability or validity of this Section 13 (Limitation of Liability); or (iii) be construed to waive any clause regarding the availability or appropriation of funds, sovereign immunity, or any other immunity, restriction, or limitation on recovery provided by law to any Governmental Entity, including the State of Iowa.

13A Security Breach Super Cap. In the event of any Security Breach caused, in whole or part, by a breach by Vendor, Vendor Contractor, or Vendor Personnel of the duties or obligations in Section 11 (Security/Privacy, Business Continuity, and Disaster Recovery) above, the maximum liability of Vendor under this Agreement shall be two (2) times the Contract Value. In addition, and notwithstanding the foregoing, in such event, Vendor shall be liable for paying for the following costs and expenses to remediate, any such Security Breach:

13A.1. The reasonable cost of providing notice of the breach to individuals affected by such breach as required by applicable law, including preparation, printing, mailing, and delivery of such notices. The applicable Governmental Entity shall determine, in its sole discretion, the content and means of delivery of any such notifications. The Parties acknowledge that express courier service is not reasonable in this context.

13A.2. The reasonable cost of reporting any such Security Breach to applicable government agencies, credit bureaus, and/or other required entities as required by applicable law.

13A.3. The cost of providing individuals affected by any such Security Breach with credit protection services designed to prevent fraud associated with identity theft crimes for a specific period not to exceed twelve (12) months, to the extent the misuse or disclosure of the affected individual's personally identifiable data or personal data could lead to a compromise of the data subject's credit or credit standing; and

13A.4 Any other services required by applicable law.

In each case, to the extent the Security Breach is caused in part by the Governmental Entity, the damages described above will be apportioned between Vendor and the Governmental Entity on a comparative fault basis. The Governmental Entity will have contributed to such Security Breach if the Governmental Entity fails to only provide Vendor with the personally identifiable data minimally required to accomplish tasks for which the Governmental Entity is using the Software or Services; by way of example, use of Social Security Numbers as employee id's, inclusion of Protected Health Information, or inclusion of Federal Tax Information would not comport with the "minimally required" concept. Nothing in this Agreement, including Section 13A (Security Breach Super Cap), shall: (i) be construed as an admission, assumption or representation by any Governmental Entity, including the State of Iowa, that any limitation on Vendor's liability specified in this Section 13A (Security Breach Super Cap) is enforceable against the applicable Governmental Entity, including the State of Iowa, under applicable law or that any Governmental Entity, including the State of Iowa, has the authority to agree to the limitation on Vendor's liability specified in this Section 13A (Security Breach Super Cap); (ii) prevent any Governmental Entity, including the State of Iowa, from challenging the enforceability or validity of this Section 13A (Security Breach Super Cap); or (iii) be construed to waive any clause regarding the availability or appropriation of funds, sovereign immunity, or any other immunity, restriction, or limitation on recovery provided by law to any Governmental Entity, including the State of Iowa.

Special Terms and Conditions #001
Insurance

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, ("**Agreement**") between the State of Iowa, acting by and through the Office of the Chief Information Officer ("**OCIO**"), and Kronos, Inc., a corporation organized under the laws of Massachusetts ("**Vendor**"). Capitalized terms used but not defined herein are as defined in the Agreement.

1. **Insurance Requirements.** Vendor shall, at its sole expense, maintain in full force and effect, with insurance companies admitted to do business in the State of Iowa, insurance covering its work of the type and in amounts required by this attachment. Vendor's insurance shall, among other things, insure against any loss or damage resulting from or related to Vendor's performance of the Agreement regardless of the date the claim is filed or expiration of the policy. All insurance policies required by this Exhibit shall: (a) remain in full force and effect for the entire Term of the Agreement; and (b) not be reduced, changed (to the detriment of the State of Iowa or any Governmental Entities), or canceled (without being simultaneously replaced by another policy meeting the requirements of this Exhibit). The State of Iowa shall be named as additional insureds on all such policies, and all such policies shall include the following endorsement: "It is hereby agreed and understood that the State of Iowa is named as additional insured." Notwithstanding the foregoing, the requirement that the State of Iowa be named as additional insureds on all policies of insurance shall not apply to Vendor's Workers Compensation Insurance. The State of Iowa will accept a combined Technology Errors and Omissions and Cyber Liability policy or a separate Technology errors and Omissions and separate Cyber Liability policy. Such insurance shall, (a) cover the liability of Vendor by reason of any actual or alleged error, omission, negligent act or wrongful act of Vendor committed in rendering or failing to render any products or services, and shall specifically include coverage for liabilities caused by a security breach, breach of privacy, or a breach of privacy regulations, including unauthorized disclosure of information, unauthorized access, or failure to protect a network security breach; liabilities resulting from the unauthorized release, transmission or publication of private or technical information in your possession under the scope of the Agreement; (b) including the indemnification of the State of Iowa for any costs and expenses, including the State of Iowa's notification expenses, incurred by the State of Iowa arising out of a security breach, privacy breach, or breach of privacy regulations; with an occurrence or per claim limit and annual aggregate limit of not less than \$5,000,000 each claim/\$5,000,000 annual aggregate; and (c) if underwritten on a claims made insuring agreement, be maintained for a period of not less than two (2) years after the expiration of the Agreement. In the event Vendor fails to secure and continuously maintain the insurance coverage required under this attachment, the State of Iowa may charge Vendor, and Vendor shall pay the State of Iowa, (a) the State of Iowa's actual expenses incurred in purchasing similar protection and (b) the value or amount of any claims, actions, damages, liabilities, costs, and expenses paid by the State of Iowa which would not have been paid by the State of Iowa if Vendor had complied with the requirements of this Exhibit.
2. **Insurance Policies.** Unless otherwise requested by the State of Iowa, Vendor shall cause to be issued insurance policies with the coverages set forth below:

<u>Type of Insurance</u>	<u>Limit</u>	<u>Amount</u>
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Products – Comp/Op Aggregate Personal injury Each Occurrence	\$5 million \$5 million \$5 million \$5 million
Excess Liability, umbrella form	Each Occurrence Aggregate	\$5 million \$5 million
Technology Errors and Omissions Insurance	Each Occurrence Aggregate	\$5 million \$5 million
Workers Compensation and Employer Liability	As Required by Iowa law	\$2 million
Cyber Liability / Network Security	Each Occurrence Aggregate	\$5 million \$5 million

3. Claims Provision. All insurance policies required by this Exhibit, with the exception of the policy for Errors and Omissions Insurance, must provide coverage on an “occurrence basis” for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy. The policy for Errors and Omissions Insurance will provide coverage on a “claims made” basis, provided however, that such policy includes extended reporting period or tail coverage acceptable to the State of Iowa.
4. Certificates of Coverage. At the time of execution of the Agreement, Vendor shall deliver to the State of Iowa certificates of insurance certifying the types and the amounts of coverage, certifying that said insurance is in force before the Vendor starts work, certifying that said insurance applies to, among other things, the work, activities, products and liability of the Vendor related to the Agreement, certifying that the State of Iowa is named as an additional insured on the policies of insurance by endorsement as required herein, and certifying should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with policy provisions. Vendors’ certificate(s) must also include all Vendor Contractors as additional insureds under its policies, or Vendor must furnish to the State separate certificates for each Vendor Contractor. All coverage for Vendor Contractors are subject to the minimum requirements identified above. All certificates of insurance shall be subject to approval by the State of Iowa. The Vendor shall deliver the certificates to the State of Iowa.
5. Liability of Vendor. Acceptance of the insurance certificates by the State of Iowa shall not act to relieve Vendor of any obligation under this Agreement. It shall be the responsibility of Vendor to keep the respective insurance policies and coverages current and in force during the life of this Agreement. Vendor shall be responsible for all premiums, deductibles and for any inadequacy, absence or limitation of coverage, and the Vendor shall have no claim or other recourse against the State of Iowa for any costs or loss attributable to any of the foregoing, all of which shall be borne solely by the Vendor. Vendor shall not be held responsible in the event of gross negligence committed by the Governmental entity. Notwithstanding any other provision of the Agreement, Vendor shall be fully responsible and liable for meeting and fulfilling all of its obligations under this attachment and the Agreement.
6. Waiver of Subrogation Rights. Vendor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State of Iowa. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the State of Iowa for all policies.

7. Filing of Claims. In the event the State of Iowa suffers a loss and is unable to file a claim under any policy of insurance required under this Agreement, the Vendor shall, at the State of Iowa's request, immediately file a proper claim under such policy. Vendor will provide the State of Iowa with proof of filing of any such claim and keep the State of Iowa fully informed about the status of the claim. In addition, Vendor agrees to use its commercially reasonable efforts to pursue any such claim, to provide information and documentation requested by any insurer providing insurance required hereunder and to cooperate with the State of Iowa. Vendor shall pay to the State of Iowa any insurance proceeds or payments it receives in connection with any such claim immediately upon Vendor's receipt of such proceeds or payments.

Special Terms and Conditions #002
Kronos, Inc. Section B:
Terms and Conditions for Software Licensees, Software and Equipment Support Services,
And Educational and Professional Services

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, ("Agreement") between the State of Iowa, acting by and through the Office of the Chief Information Officer ("OCIO"), and Kronos Incorporated, a corporation organized under the laws of Massachusetts ("Vendor"). Capitalized terms used but not defined herein are as defined in the Umbrella Agreement. These Special Terms and Conditions, sometimes referred to within these Special Terms and Conditions as "Section B," apply to Software licensed on a perpetual basis for installation on Customer's systems (i.e., not in Kronos' cloud environment), Equipment purchased in connection thereto, related support services for such Software and Equipment, and educational and Professional Services, when such items are identified on the Purchasing Instrument (which may also be referred to as an "Order," "Order Form," or "Statement of Work" in this Section B) and which purchases are subject to the Umbrella Agreement (and any applicable terms and conditions set forth therein or otherwise applicable thereby) and these Special Terms and Conditions.

1. PAYMENT AND DELIVERY

All payment, invoicing, and delivery terms and conditions are as set forth in Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement.

2. GENERAL LICENSE TERMS

Kronos hereby grants to the applicable Governmental Entity issuing a Purchasing Instrument subject to these Special Terms and Conditions (hereinafter referred to as "Customer") a nonexclusive, irrevocable (except as otherwise provided in the Agreement), perpetual, fully paid up (except if the product is licensed on an annual basis or is a subscription-type product), royalty-free, world wide right and license to: (a) use, install, access, execute, host, maintain, support, configure, and test the Software, based on the Software, in all media now known or hereafter created; (b) grant any or all of the rights set forth/granted herein to Customer's Authorized Contractors, provided the Authorized Contractor is using or accessing the Software only for the benefit of the Customer; (c) combine and use the Software with other software, firmware, and hardware; (d) grant to users rights to access and use the Software and its functions.

All Software subject to this Agreement may be installed, used and or hosted on: (i) any one or more of the State's, Office's, or any Customer's servers; (ii) with any Authorized Contractor's computers, data center locations, networks, electronic storage devices, servers or other systems ("Third Party Hosting Providers"). Notwithstanding the foregoing, Contractor may provide the Office with a list, attached as Exhibit A of this Section B, naming Third Party Hosting Providers that the Contractor deems competitors. Contractor may amend that Exhibit A, from time to time, provided that any such amendment shall be in writing and duly executed by both Parties. If Contractor identifies a Third-Party Hosting Provider in Exhibit B, the State, the Office, or any Customer shall be required to obtain Contractor's prior written consent, which shall not be unreasonably withheld, before the State, the Office, or any Customer uses a Hosting Provider named in the most current Exhibit B. If Contractor refuses to give its consent, the State or the Office may terminate this Agreement, or any Customer may terminate any applicable Statement of Work or Order Form, in either case without any penalty or liability to Contractor.

Subject to the terms of the Umbrella Agreement and except as otherwise expressly provided herein, the Software and Software documentation are confidential and may not be disclosed to a Third Party without Kronos' written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law.

3. FEE BASED LIMITATIONS

Customer recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Customer. Limitations, which are set forth on the Order Form, may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Customer agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Customer's own business or for Customer's governmental purposes or activities. Customer agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Customer pays the applicable fee for such increase/upgrade. Customer may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any Third Party, with the exception of Authorized Contractors; provided that in the case of the restructuring or consolidation of any Customer, including becoming or being integrated into a new or different Governmental Entity, Customer may assign its rights and obligations in or to such Software to any successor Governmental Entity. Customer may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos; provided that where Customer is a centralized administrative agency, subunit, or division of a larger Governmental Entity, Customer may provide data processing services or otherwise make the use of the Software to fulfill its duties and responsibilities on behalf of the larger Governmental Entity without the prior written consent of Kronos.

4. OBJECT CODE ONLY

Customer may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompiled or unassembled code. The Programs include components owned by Third Parties. Such third-party components are deemed to be Software subject to this Section B. Customer shall not use

any of the Programs (or the data models therein) except solely as part of and in connection with the Software and as described in the published documentation for such Software.

5. PERMITTED COPIES

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

6. UPDATES

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

7. INTENTIONALLY LEFT BLANK

8. LIMITED WARRANTY

Kronos warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In addition, provided that Customer purchases and continuously remains on support maintenance services with Kronos for the Software and Equipment, Kronos warrants that the Software and Equipment shall materially perform in accordance with the Specifications during the period that any such support and maintenance services are purchased. In the event of a breach of this warranty, in addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos may repair or replace Deficient Equipment and/or Software media, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:

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

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

9. PROFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS

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

(b) WARRANTY

Kronos warrants that all Professional Services performed under this Agreement shall be performed in a professional and competent manner. In the event that Kronos breaches this warranty, and Customer so notifies Kronos within thirty (30) days of receipt of invoice for the applicable Services, in addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos shall re-perform the Services which were Deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Customer.

(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES

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

10. SOFTWARE SUPPORT SERVICES

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

10.1 SUPPORT OPTIONS

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

10.2 TERM OF SOFTWARE SUPPORT

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

10.3 GOLD SERVICE OFFERINGS

Customer shall be entitled to receive:

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

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

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

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

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

10.4 PLATINUM AND PLUS SERVICE OFFERINGS:

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

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

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

10.5 PAYMENT

All payment and invoicing terms and conditions are as set forth in Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement.

10.6 ADDITION OF SOFTWARE

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

10.7 RESPONSIBILITIES OF CUSTOMER

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

10.8 DEFAULT

All terms and conditions governing default/termination are as set forth in Section 9 (Default and Termination) of the Umbrella Agreement.

10.9 WARRANTY

In addition to any other warranties set forth herein, Kronos warrants that all support services shall be performed in a professional and competent manner.

11. EQUIPMENT SUPPORT SERVICES

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

11.1 TERM

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

11.2 PAYMENT

All payment, invoicing, and delivery terms and conditions are as set forth in Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement.

11.3 DEPOT SUPPORT SERVICE DESCRIPTION

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

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

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

11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION

If Customer purchases the Equipment service pack support offering for Kronos manufactured terminals specified on an Order, Customer shall be entitled to receive:

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

Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos. Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Kronos shall repair or replace the Deficient service pack(s) or firmware update(s) provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

11.5 RESPONSIBILITIES OF CUSTOMER

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

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

11.6 SUPPORT EXCLUSIONS

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

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

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

11.7 WARRANTY

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

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

11.8 LIMITATION OF REMEDIES

Reserved.

12. KRONOS SUPPORT SERVICE POLICIES

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

13. FIRMWARE

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

14. TRAINING POINTS

Training Points which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Available instructor-led sessions are listed at <http://customer.kronos.com> and each session has the Training Points value indicated. Training Points are invoiced only when used by the Customer. Training Points may not be exchanged for other Kronos products and/or services.

15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

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

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

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

Webinars

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

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

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

Limitations: Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of and distribute the KnowledgePass Content provided in pdf form solely: 1) for Customer's Internal use; and 2) to the extent required by any applicable State or federal law or regulation, including Iowa Code Chapter 22 (Examination of Public Records/Open Records), or to the extent permitted by Iowa Code Chapter 22 (Examination of Public Records/Open Records). Customer may not otherwise disclose such KnowledgePass Content to any Third Party other than Customer's employees or Authorized Contractors. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's Internal use.

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

Exhibit A of Section B

Third-Party Hosting Providers Kronos Identifies as Competitors

ADP
Apex Time Solutions
Ceridian
Emerald City Software
Empower Epicor
Executime
Frontline Technologies
High Line Corporation
Infor
IntelliTime
inTime
JDA Software
NetSuite
NOVAtime
OnShift
Oracle
Paychex
PayChoice
Paycom
Paycor
Sage
SAP
Silver
Brook
Systems
SumTotal
Sungard
TimeClock Plus
Tyler Technologies
Ultimate Software
Workday
Workforce Software

Special Terms and Conditions #003
Kronos, Inc. Section D:
Kronos Workforce Central – Software As A Services (SAAS) Terms and Conditions

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, (“**Agreement**”) between the State of Iowa, acting by and through the Office of the Chief Information Officer (“**OCIO**”), and Kronos Incorporated, a corporation organized under the laws of Massachusetts (“**Vendor**”). Capitalized terms used but not defined herein are as defined in the Umbrella Agreement. These Special Terms and Conditions, sometimes referred to within these Special Terms and Conditions as “**Section D**,” apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications in Kronos’ hosting environment, the services related thereto, and the sale of Equipment (if any) in connection thereto, as specified on a Purchasing Instrument (which may also be referred to as an “**Order**,” “**Order Form**,” or “**Statement of Work**” in this Section D) and which purchases are subject to these Special Terms and Conditions. The applicable Governmental Entity is referred to in these Special Terms and Conditions as “**Customer**” and **Vendor** is referred to as “**Kronos**”. The Applications described on the Order shall be delivered by means of Customer’s permitted access to the Cloud Services hosting such Applications.

1. DEFINITIONS

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

“**Agreement**” means the Umbrella Agreement and the terms and conditions of Section D and the Order Form(s).

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

“**Billing Start Date**” means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form, which shall be no earlier than the date Customer is able to access the cloud environment. Notwithstanding, and except as otherwise provided herein, any related Implementation Services provided on a time and material basis are billed monthly as delivered. The Billing Start Date of the Monthly Service Fees for any Services ordered by Customer after the date of this Agreement which are incremental to Customer’s then-existing Services shall be the date the applicable Order Form is executed by Kronos and Customer.

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

“**Customer Content**” means all content Customer, or others acting on behalf of or through Customer including Customer’s Authorized Contractors, posts or otherwise inputs into the Services or Applications, including Customer Data.

“**Documentation**” shall be as defined in the Umbrella Agreement, which in this context generally refers to the technical publications published by Kronos relating to the use of the Services or Applications.

“**Customer Users**” means the employees or Authorized Contractor(s) of any Customer utilized by any Customer, directly or indirectly, to use, maintain, configure, support, modify, or otherwise assist a Customer with the Applications or underlying Cloud Services.

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

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

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

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

“**Monthly Service Fee(s)**” means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications and the Services, including the Cloud Services as applicable. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

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

“**Personally Identifiable Data**” means information concerning individually identifiable individuals that is protected against disclosure or subject to safeguarding requirements under applicable law or regulation. For the avoidance of doubt, Personally Identifiable Data shall include any data or information covered under or protected by Iowa Code chapter 715C.

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

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

"Statement of Work", "SOW", "Services Scope Statement" and "SSS" are interchangeable terms referring to a Statement of Work as defined in the Umbrella Agreement, which in this context generally refers to a written description of Implementation Services related to the implementation and configuration of the Applications and underlying Cloud Services as mutually agreed upon by Kronos and Customer and set forth as "bill as you go" services on the Order Form.

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

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

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

2. TERM

2.1 Billing for the Services commences on the Billing Start Date, and continues for the Initial Term or until terminated, extended, or renewed in accordance with the provisions hereof. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may be renewed for an additional Renewal Term by written notice from the Customer at least thirty (30) days prior to the expiration of any upcoming expiring Initial Term or Renewal Term, whichever is applicable. Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of any upcoming expiring Initial Term or Renewal Term that such Initial Term or Renewal Term, as applicable, is about to expire.

2.2 In addition to any other termination rights sets forth in the Umbrella Agreement, Customer may terminate the Services for convenience upon sixty (60) days prior written notice subject to Customer's payment for services performed. Kronos may terminate the Services and this Agreement to be effective at the expiration of the then current Term upon no less than sixty (60) days prior written notice.

2.3

2.3A Kronos may suspend or terminate the Services upon notice in the event of any undisputed breach by Customer of this Section D if such breach is not cured after the Parties have engaged in good faith attempt to resolve the dispute. Such good faith attempt shall include, at a minimum outlining in writing the Parties' respective positions concerning such fee dispute, providing such written position to the other Party, and escalating the dispute to the appropriate level of management for appropriate resolution. This obligation to engage in good faith efforts to resolve a dispute prior to suspending or terminating any Service shall not preclude the Parties from pursuing other remedies that may be otherwise available under this Agreement, at law, or in equity.

2.3B In addition to any other termination rights sets forth in the Umbrella Agreement, Customer may terminate the Services by written notice at any time during the Term if Kronos materially breaches any provision of this Section D, and such default is not cured within thirty (30) days after receipt of written notice from Customer.

2.5 If the Services are terminated as provided in these Special Terms and Conditions:

(a) Customer shall pay Kronos all fees then due and owing for the Services prior to the date of termination following submission of invoices and proper proof of Kronos' claim and in accordance with the payment terms set forth in Section 4 (Payment terms and Additional Rights and Remedies) of the Umbrella Agreement. If Customer has prepaid any fees, Kronos shall refund Customer any pre-paid fees for Services not delivered by Kronos;

(b) Subject to and except as is necessary to effectuate subsection (c) and Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, Customer's right to access and use the Applications shall be revoked and be of no further force or effect;

(c) Subject to and except as is necessary to effectuate Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, for no more than thirty (30) days after termination, Kronos will make available to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and will securely delete any or all Customer Content without liability;

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

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

2.6 Consistent with and in addition to any rights, duties, or obligations set forth in Section 11.4.1 (Import and Export of Data) of the Umbrella Agreement, Customer or its Authorized Contractors shall have the ability to import or export Customer Content to or from the Cloud Services during the Term at no charge, without interference from Contractor. Customer Content shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for as long as mutually agreed to by the Parties after expiration or termination of the Agreement for any reason (including as may be agreed to in the Umbrella Agreement).

3. FEES AND PAYMENT

3.1 Customer will pay Kronos for the Services in accordance with Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement.

3.2 If any undisputed amount owing under this or any other agreement between the Parties is thirty (30) or more days overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Services until such undisputed amounts are paid in full. Kronos will provide at least fourteen (14) days' prior written notice that Customer's account is overdue before suspending Services.

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

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of this Agreement, Contractor grants to Customer for Customer's governmental or business activities and purposes, including for the provisioning of information and services to Customer Users, during the Term a limited, revocable (subject to the terms of the Agreement), non-exclusive license to: (i) access, use, execute, configure, and test the Applications and related Services; (ii) access and use any related Documentation; (iii) access and use training materials and KnowledgePass Content; and, (iv) access, use, execute, configure, and test any embedded Third Party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Customer shall not use any of the Third Party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license agreement found at http://www.redhat.com/licenses/jboss_eula.html

4.2 Customer acknowledges and agrees that the right to use the Applications is limited based upon the amount of the Monthly Service Fees paid by Customer. Customer agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Customer agrees not to use any other modules or features nor increase the number of employees and users unless Customer pays for such additional modules, features, employees or users, as the case may be. Customer may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any Third Party, with the exception of Authorized Contractors; provided that in the case of the restructuring or consolidation of any Customer, including becoming or being integrated into a new or different Governmental Entity, Customer may assign its rights and obligations in or to such software to any successor Governmental Entity. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos; provided that where Customer is a centralized administrative agency, subunit, or division of a larger Governmental Entity, Customer may provide data processing services or otherwise make the use of the Software to fulfill its duties and responsibilities on behalf of the larger Governmental Entity without the prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder.

4.3 Customer may authorize its Authorized Contractors to access the Services through Customer's administrative access privileges on an as needed basis, provided Customer: a) abides by its obligations to protect Confidential Information as set forth in this Agreement; b) remains responsible for all such Third Party usage and compliance with the Agreement; and c) does not provide such access to a competitor of Kronos who provides workforce management services, which competitor has been identified in Exhibit D-2 of this Section D.

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

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

5. ACCEPTABLE USE

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

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

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

5.4 Kronos may suspend the Services immediately upon written notice in the event of any security risk, negative impact on infrastructure or Acceptable Use Policy violation; provided that any such suspension shall be limited to the amount of time reasonably necessary to resolve, remediate, or cure any such security risk, negative impact, or violation.

6. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, Third Party services and related equipment and components); and (b) subject to Section 11.5 of the Umbrella Agreement, provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement.

7. SUPPORT

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

7.4 Support Services for Equipment. Provided Customer has purchased support services for the Equipment, the following terms shall apply:

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

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

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

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

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

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

(b) **Warranty.** Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, in addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos shall repair or replace the Deficient service pack(s) or firmware update(s), at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

(c) **Responsibilities of Customer.** It is Customer's responsibility to purchase and retain, at Customer's location and at Customer's sole risk and expense, a sufficient number of spare products ("**Spare Products**") to allow Customer to replace failed Equipment at

Customer's locations in order for Customer to continue its operations while repairs are being performed and replacement Equipment is being shipped to Customer. For each of the Depot Exchange and Depot Repair Equipment Support Services options, Customer agrees that it shall return failed Equipment promptly as the failures occur and that it shall not hold failed Equipment and send failed Equipment to Kronos in "batches" which shall result in a longer turnaround time to Customer. In addition, Customer agrees to:

- (i) Maintain the Equipment in an environment conforming to the Kronos published specifications for such Equipment;
- (ii) Not perform self-repairs on the Equipment (i.e., replacing components) without prior written authorization from Kronos;
- (iii) De-install all failed Equipment and install all replacement Equipment in accordance with Kronos' written installation guidelines;
- (iv) Ensure that the Equipment is returned to Kronos properly packaged; and
- (v) Obtain an RMA before returning any Equipment to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Equipment authorized by Kronos when issuing the RMA.

(d) **Delivery.** All domestic shipments within the United States are FOB Destination to/from Customer and Kronos with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination.

7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is purchased on an Order Form, Kronos will provide Customer with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Kronos (the "**KnowledgePass Content**"). Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in pdf form solely for Customer's internal use. Customer may not disclose such KnowledgePass Content to any Third Party other than Customer's employees or Authorized Contractors; provided Customer may not disclose such KnowledgePass Content to a competitor of Kronos who provides workforce management services, which competitors are identified in Exhibit D-2, without Kronos' prior written consent. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of training kits solely for Customer's internal use.

7.6 Training Points. "Training Points" which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Training Points are invoiced only when used by the Customer. Training Points may not be exchanged for other Kronos products or services.

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

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

8. CUSTOMER CONTENT

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Customer is responsible for ensuring that: (a) the delivery to Contractor and storage, processing, and transmittal of Customer Content, as permitted herein, complies with all applicable laws; (b) Customer has all rights necessary, or obtained any required consents, to deliver the Customer Content hereunder for use as specified herein; and (c) Customer Content complies with any applicable Terms and Conditions of this Agreement. Kronos and its Suppliers may, but shall have no obligation to, access and monitor Customer Content from time to time solely to the extent necessary to provide the Cloud Services and to ensure compliance with this Agreement and applicable law.

9. EQUIPMENT

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

- a) **Ownership and Warranty Period.** Title to the Equipment shall pass to Customer upon delivery to the carrier. The "**Warranty Period**" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).
- b) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in this Agreement if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services may be renewed for additional one-year terms on the anniversary of its commencement date ("**Renewal Date**") by written notice from the Customer at least thirty (30) days prior to the expiration of any upcoming expiring support-service term. Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of any upcoming expiring support-service term. Kronos may change the annual support charges for Equipment support services effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification.

10. SERVICE LEVEL AGREEMENT

Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit D-1 and which is hereby incorporated herein by reference. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit, or otherwise limit, any remedies available to Customer at law, in equity consistent with the Agreement, or by operation of this Agreement.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

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

11.2 In addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos shall undertake reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material Deficiencies in the Services, after using Kronos' commercially reasonable efforts to do so, in addition to any other remedies available hereunder, at law, in equity, or otherwise, Customer shall be entitled to terminate the then-remaining Term of the Order. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

11.3 Kronos warrants to Customer that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, in addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos shall repair or replace of the Deficient Equipment, at Kronos' option, provided that Customer's use, installation and maintenance thereof has conformed to the Documentation for such Equipment. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) in the event of:

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

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

EXHIBIT D-1 OF SECTION D

SERVICE LEVEL AGREEMENT (SLA)

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

99.75% Application Availability

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

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

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

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

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

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

Customer Specific Maintenance Period

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

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

Non-Customer Specific Maintenance Period

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

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

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

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

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

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

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

Exhibit D-2 of Section D

Entities Kronos Identifies as Competitors

ADP
Apex Time Solutions
Ceridian
Emerald City Software
Empower Epicor
Executime
Frontline Technologies
High Line Corporation
Infor
IntelliTime
inTime
JDA Software
NetSuite
NOVAtime
OnShift
Oracle
Paychex
PayChoice
Paycom
Paycor
Sage
SAP
Silver
Brook
Systems
SumTotal
Sungard
TimeClock Plus
Tyler Technologies
Ultimate Software
Workday
Workforce Software

Special Terms and Conditions #004
Kronos, Inc. Section E:
Workforce Telestaff IVR Service
(Licensed or User based)

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, ("**Agreement**") between the State of Iowa, acting by and through the Office of the Chief Information Officer ("**OCIO**"), and Kronos, Inc., a corporation organized under the laws of Massachusetts ("**Vendor**"). Capitalized terms used but not defined herein are as defined in the Umbrella Agreement. The Parties hereby agree that the following terms and conditions are supplemental terms and conditions to the Agreement and are applicable to the Workforce Telestaff IVR service ("**Workforce Telestaff IVR**"), a service of Aspect Software Inc., which Kronos is authorized to resell. The Workforce Telestaff IVR service can be ordered either on a licensed basis (in which case Workforce Telestaff IVR is only available with a perpetual license to Workforce Telestaff and is not hosted by Kronos) ("**Workforce Telestaff IVR License Per Port**") or on a per minute basis ("**Workforce Telestaff IVR Service**"). The applicable designation for Workforce Telestaff IVR will be indicated on the applicable Purchasing Instrument (which may also be referred to as an "**Order**," "**Order Form**," or "**Statement of Work**" in this Section E).

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

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

Implementation. To initiate and setup administration of the required communications, Kronos will perform the standard implementation of Workforce Telestaff IVR, including configuration, as described in a Statement of Work ("**SOW**") signed by the Customer. Subject to the terms and conditions of the Umbrella Agreement, any additional Professional Services for non-standard implementation services will be provided at mutually agreed upon rates subject to a separate Order Form or a separate Statement of Work mutually agreed upon by both Parties.

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

Workforce Telestaff IVR Services: Additional Responsibilities. Customer agrees that Workforce Telestaff IVR has not been designed for, and may not be used as, a means to connect with 911 or E911 emergency services. Kronos will not be responsible for any delays, failures or unavailability of Workforce Telestaff IVR due to transmission or other delays, errors or problems beyond Kronos' control, or any other interruptions caused by the mobile communications network and/or mobile devices. Use of Workforce Telestaff IVR is subject to the software license terms set forth in the Agreement as well as the Acceptable Use Policy found at: <https://www.aspect.com/acceptable-use-policy>. Customer acknowledges that communications occurring through Workforce Telestaff IVR may be subject to standard mobile carrier policies or government regulatory requirements for mobile communications.

Renewal and Termination. The initial Term is twelve (12) months. At the expiration of the initial Term, the initial Term may be renewed for an additional twelve (12) month term by written notice from the Customer at least thirty (30) days prior to the expiration of the initial Term. Any renewal term may be renewed follow the same process. Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of the upcoming expiring initial Term or renewal Term, whichever is applicable, that such initial Term or renewal Term, as applicable, is about to expire. At any time: (i) Customer may terminate the Workforce Telestaff IVR service for convenience upon thirty (30) days prior written notice, and (ii) Kronos may terminate the Workforce Telestaff IVR service for convenience upon one hundred and twenty (120) days prior written notice. Kronos may increase the per minute rate upon renewal with sixty (60) days prior written notice for use based Workforce Telestaff IVR.

**Special Terms and Conditions #005
Kronos Incorporated Section K:
Workforce Dimensions Agreement**

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, ("**Agreement**") between the State of Iowa, acting by and through the Office of the Chief Information Officer ("**OCIO**"), and Kronos Incorporated, a corporation organized under the laws of Massachusetts ("**Vendor**"). Capitalized terms used but not defined herein are as defined in the Umbrella Agreement. Customer and Kronos agree that the terms and conditions set forth in these Special Terms and Conditions apply to Kronos' Workforce Dimensions software as a service and other related offerings. These Special Terms and Conditions are referred to as "**Section K**" throughout.

This Section K includes the following exhibits, which are incorporated by reference, and which form an integral part of these Special Terms and Conditions:

- Exhibit K-A: Attachment A-1: Equipment Purchase, Rental, and Support (note that Equipment Rental is not an option under the Umbrella Agreement)
 - Attachment A-2: Professional and Educational Services Policies
 - Attachment A-3: Service Level Agreement
- Exhibit K-B: Workforce Dimensions Cloud Guidelines:
www.kronos.com/workforce-dimensions/agreement/exhibitb
- Exhibit K-C: Customer Success
 - Attachment C-1: Customer Success Plans
 - Attachment C-2: Support Policies
- Exhibit K-D: Acceptable Use Policy (AUP):
www.kronos.com/workforce-dimensions/agreement/exhibitd
- Exhibit K-E: AtomSphere Service and Boomi Software
 - Attachment E-1: Boomi Flow Down Provisions

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

Definitions

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

"Aggregated Data" is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by Kronos in response to specified queries for a set point in time; including without limitation aggregation, metrics, trend data, correlations, benchmarking, determining best practices, the number and types of transactions, configurations, records, reports processed in the Service, and the performance results for the Service Agreement. Aggregated Data will not include any Personally Identifiable Information.

"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 or governmental functions or activities.

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

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

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

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

"Claim(s)" means any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a Third Party.

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

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

"Customer Data" shall be as defined in the Umbrella Agreement, which in this context generally refers to all content Customer, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

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

"Customer Indemnified Party(ies)" means Customer and Customer's respective directors, officers, and employees.

"Customer Users" means the employees or Authorized Contractor(s) of any Customer utilized by any Customer, directly or indirectly, to use, maintain, configure, support, or otherwise assist a Customer with the Applications or underlying Cloud Services.

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

"Documentation" shall be as defined in the Umbrella Agreement, which in this context generally refers to the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides. **"Equipment"** means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form.

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

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

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

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

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

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

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

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

"PEPM" means the per employee per month fee for a Customer's Authorized Users access to the Service.

"Personally Identifiable Information" means information concerning individually identifiable individuals that is protected against disclosure or subject to safeguarding requirements under Applicable Data Protection Law. For the avoidance of doubt, Personally Identifiable Data shall include any data or information covered under or protected by Iowa Code chapter 715C.

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

"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.

"Security Breach" means the unauthorized acquisition of or access to Customer Data, the Services or Applications installed or running thereon by an unauthorized person that compromises the security, confidentiality, or integrity of Customer Data, the Services or Applications, including instances in which internal personnel access systems in excess of their user rights or use systems inappropriately where such access or use adversely affects Customer Data. **"Security Breach"** shall also be deemed to include any breach of security, confidentiality, or privacy as defined by any applicable Data Protection Law(s) that affects Customer Data.

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

"SLA(s)" means a service level agreement offered by Kronos for the Services and attached to this Section K as Attachment A-1 which contains key service level standards and commitments that apply to the Services.

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

"Statement of Work" and **"SOW"** shall be as defined in the Umbrella Agreement, are interchangeable terms, and in this context generally refer to a written description of the Implementation Services.

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

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

1. Order Forms

1.1 Subject to the payment terms and conditions set forth in Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement, the following commercial terms may appear on an Order Form:

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

1.2 The following Fees may appear on an Order Form:

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

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

2. Billing

2.1 Customer will pay Kronos for the Services in accordance with Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement.

2.2 At the expiration of the Initial Term, and at the expiration of each Renewal Term, Customer may, to the extent any additional Renewal Terms are available under an applicable Order, renew the then upcoming expiring term by written notice from the Customer at least thirty (30) days prior to the expiration of the upcoming expiring Initial Term or Renewal Term, as applicable. Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of any Initial Term or Renewal Term. For each Renewal Term, Kronos may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees, for the same Applications and the same licensed quantity. Kronos will reflect these increased PEPM fees in the applicable invoice for each Renewal Term.

3. Configurations 3.1 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. To the extent the Service permits a Customer to configure the Services for its specific governmental activities and needs, Customer is solely responsible for ensuring that the Configurations comply with Applicable Law.

3.2 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 Section K, the terms of this Section K shall prevail.

4. Service Level Agreement

Kronos offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. In addition to any other remedies available hereunder, at law, in equity, or otherwise, Kronos remains obligated to provide the Service as otherwise described in this Section K.

5. Data, Confidentiality, Security and Privacy

Section 5.1 Data

5.1.1 Customer owns Customer Data. Customer is solely responsible for ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Customer is solely responsible for ensuring that: (a) the delivery to Kronos and the storage, processing, and transmittal of Customer Data, as permitted herein, complies with all applicable laws; (b) Customer has all rights necessary, or obtained any required consents, to deliver the Customer Data hereunder for use as specified herein; (c) Customer Data complies with any applicable Terms and Conditions of this Agreement.

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

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. Customer agrees to provide Kronos with reasonable information and assistance to enable Kronos to reproduce or verify the non-conforming aspect of the Service.

7. License

Section 7.1 Technology License

7.1.1 As part of the Service, Kronos will provide Customer access to and use of the Technology, including the Applications within and running on the Service. Subject to the terms and conditions of this Section K and the Agreement, Contractor grants to Customer, Customer Users, and Customer's Authorized Contractors for Customer's governmental or business activities and purposes, including for the provisioning of information and services to Customer Users, during the Term a limited, revocable (subject to the terms of the Agreement), non-exclusive license to: (i) access, use, execute, configure, and test the Applications and Service, including any embedded Third Party software, libraries, or other components, which form a part of the Service; and (ii) access, use, reproduce, and internally distribute (i.e., subject to obligations of confidentiality) any related Documentation. 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 or Authorized Contractors 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 or Authorized Contractors using an Application unless Customer enters into an additional Order Form that will permit the Customer to have additional Authorized Users.

7.1.2 Kronos owns all title or possesses all intellectual property rights in and to the Technology used in delivering the Service. Customer has a right to access, use, and configure this Technology and to receive the Service subject to this Section K. No other use of the Technology is permitted. Customer is specifically prohibited from reverse engineering, disassembling or decompiling the Technology, or otherwise attempting to derive the source code of the Technology. Customer cannot contact Kronos' data center provider, integration development tool provider, nor any Third Party licensor of an embedded component of the Service for direct support. 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. Customer may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any Third Party, with the exception of Authorized Contractors; provided that in the case of the restructuring or consolidation of any Customer, including becoming or being integrated into a new or different Governmental Entity, Customer may assign its rights and obligations in or to such software to any successor Governmental Entity. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos; provided that where Customer is a centralized administrative agency, subunit, or division of a larger Governmental Entity, Customer may provide data processing services or otherwise make the use of the Software to fulfill its duties and responsibilities on behalf of the larger Governmental Entity without the prior written consent of Kronos.

8. Scope and Authority

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

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

9. Suspension

9.1 Kronos may suspend the Service if any undisputed amount that Customer owes Kronos is more than thirty (30) days overdue. Kronos will provide Customer with at least fourteen (14) days prior written notice that the Customer's account is overdue before Kronos suspends the Service. Upon payment in full of all undisputed overdue amounts, Kronos will immediately restore the Service.

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

10. Termination

Section 10.1. Types of Termination.

In addition to any other termination rights sets forth in the Agreement:

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

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

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

Section 10.2 Effects of Termination If the Service is terminated as provided in these Special Terms and Conditions:

(a) Customer shall pay Kronos all fees then due and owing for the Service prior to the date of termination following submission of invoices and proper proof of Kronos' claim and in accordance with the payment terms set forth in Section 4 (Payment terms and Additional Rights and Remedies) of the Umbrella Agreement. If Customer has prepaid any fees, Kronos shall refund Customer any pre-paid fees for Service not delivered by Kronos;

(b) Subject to and except as is necessary to effectuate subsection (c) and Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, Customer's right to access and use the Service shall be revoked and be of no further force or effect;

(c) Subject to and except as is necessary to effectuate Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, for no more than thirty (30) days after termination, Kronos will make available to Customer, at no charge to Customer, the Customer Data. After such time period, Kronos shall have no further obligation to store or make available the Customer Data and will securely delete any or all Customer Data without liability;

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

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

2.6 Consistent with and in addition to any rights, duties, or obligations set forth in Section 11.4.1 (Import and Export of Data) of the Umbrella Agreement, Customer or its Authorized Contractors shall have the ability to import or export Customer Data to or from the Service during the Term at no charge, without interference from Kronos. Customer Data shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for as long as mutually agreed to by the Parties after expiration or termination of the Agreement for any reason.

11. Reserved.

12. Reserved.

13. Changes

The information found in any Exhibit (or at any URL referenced in this Section K) may change over the Term. Any such change will be effective as of the start of the next Renewal Term after such change is announced or published by Kronos. To the extent of any conflict or inconsistency between the terms and conditions in this Agreement (including the Umbrella Agreement) and any such change to any Exhibit (or at any URL referenced in this Section K), the terms and conditions of this Agreement (including the Umbrella Agreement) shall prevail.

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's Confidential Information, and nothing in this Section K limits Kronos' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Attachment A-1: Equipment Purchase, Rental, and Support (note that Equipment Rental is not an option under the Umbrella Agreement):

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

Attachment A-2: Professional and Educational Services Policies:

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

Attachment A-3: Service Level Agreement:

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

Exhibit K-C: Customer Success

Section 1. Success Plans

1.1 Kronos offers the following Success Plans for Workforce Dimensions:

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

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

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

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

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

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

- a. All of the services under Guided Success. Additionally, KnowledgeMap™ Live and a TAM are included as part of the Signature Success Plan for no additional Fee.

- b. 24/7 Local Time Zone Support with one-hour response time to support cases.
- c. Technical Account Manager included at no additional charge.
- d. Integration/API Support: Assistance with enhancing and updating existing APIs and integrations.
- e. KnowledgeMap™ Live included at no additional charge.
- k. Industry Best Practice Audit: Review configuration and use of Workforce Dimensions against industry peers and provide recommendations.

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

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

Attachment C-1: Success Plans:

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

Attachment C-2: Support Policies:

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

Exhibit K-E: AtomSphere Service and Boomi Software

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

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

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

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

Attachment E-1: Boomi Flow Down Provisions:

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

Exhibit K F: Workforce Dimensions™ Add-Ins

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

Special Terms and Conditions #006
Kronos SAAShr, Inc. Section B:
Kronos Workforce Ready – Software As A Services (SAAS) Terms and Conditions

The following Special Terms and Conditions are part of and incorporated into the State of Iowa Kronos Workforce Management Systems and Related Products, Services and Solutions Umbrella Agreement, Contract No. 2019 BUS 0503, (“**Agreement**”) between the State of Iowa, acting by and through the Office of the Chief Information Officer (“**OCIO**”), and Kronos SaaS, Inc., a corporation organized under the laws of Delaware (“**Vendor**”). Capitalized terms used but not defined herein are as defined in the Umbrella Agreement. Customer and Kronos agree that the terms and conditions set forth in these Special Terms and Conditions sometimes referred to within these Special Terms and Conditions as “**Section B**,” shall apply to the Kronos supply of the commercially available version of the Workforce Ready® SaaS Applications, and the services related thereto, and the sale of Equipment (if any). The Applications described on the applicable Purchasing Instrument (which may also be referred to as an “**Order**,” “**Order Form**,” or “**Statement of Work**” in this Section B) shall be delivered by means of Customer’s permitted access to the infrastructure hosting such Applications.

1. DEFINITIONS

“**Agreement**” means the Umbrella Agreement and these terms and conditions and the Order Form(s).

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

“**Billing Start Date**” means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form, which shall be no earlier than the date Customer is able to access or use the Services. The Billing Start Date of the Monthly Service Fees for any Services ordered by Customer after the date of this Agreement which are incremental to Customer’s then-existing Services shall be the date the applicable Order Form is executed by Kronos and Customer.

“**Customer Content**” means all content Customer, or others acting on behalf of or through Customer including Customer’s Authorized Contractors, posts or otherwise inputs into the Services, including Customer Data.

“**Customer Users**” means the employees or Authorized Contractor(s) of any Customer utilized by any Customer, directly or indirectly, to use, maintain, configure, support, modify, or otherwise assist a Customer with the Applications or underlying Cloud Services.

“**Documentation**” shall be as defined in the Umbrella Agreement, which in this context generally refers to technical publications published by Kronos relating to the use of the Services.

“**Educational Content**” has the meanings ascribed in Section 7.3.

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

“**Monthly Service Fee(s)**” means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications and the Services. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

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

“**Personally Identifiable Data**” means information concerning individually identifiable individuals that is protected against disclosure or subject to safeguarding requirements under applicable law or regulation. For the avoidance of doubt, Personally Identifiable Data shall include any data or information covered under or protected by Iowa Code chapter 715C.

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

“**Services**” means accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, and all such services, items and offerings accessed by Customer therein.

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

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

2. TERM

2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated, extended, or renewed in accordance with the provisions hereof. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may be renewed for an additional Renewal Term by written notice from the Customer at least thirty (30) days prior to the expiration of any upcoming expiring Initial Term or Renewal Term, whichever is applicable. Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of any upcoming expiring Initial Term or Renewal Term that such Initial Term or Renewal Term, as applicable, is about to expire.

2.2 In addition to any other termination rights set forth in the Agreement, Customer may terminate the Services for convenience upon ninety (90) days prior written notice subject to Customer's payment of the Services performed and Equipment delivered prior to the effective date of termination. Kronos may terminate the Services and this Agreement to be effective at the expiration of the then current Term upon no less than sixty (60) days prior written notice.

2.3 In addition to any other termination rights set forth in the Agreement, Kronos may suspend or terminate the Services upon notice in the event of any breach by Customer of these Special Terms and Conditions if such breach is not cured after the Parties have engaged in good faith attempt to resolve the dispute. Such good faith attempt shall include, at a minimum outlining in writing the Parties' respective positions concerning such fee dispute, providing such written position to the other Party, and escalating the dispute to the appropriate level of management for appropriate resolution. This obligation to engage in good faith efforts to resolve a dispute prior to suspending or terminating any Service shall not preclude the Parties from pursuing other remedies that may be otherwise available under this Agreement, at law, or in equity.

Notwithstanding the foregoing, Kronos may suspend the Services immediately upon notice in the event of any Customer breach of Sections 4 (Rights to Use), 5 (Acceptable Use), or Section B.4 (Confidential Information); provided that any such suspension shall be limited to the amount of time reasonably necessary to resolve, remediate, or cure any such breach.

2.4 In addition to any other termination rights set forth in the Agreement, Customer may terminate the Services by written notice at any time during the Term if Kronos materially breaches any provision of these Special Terms and Conditions, and such default is not cured within thirty (30) days after receipt of written notice from Customer.

2.5 If the Services are terminated as provided in these Special Terms and Conditions:

- (a) Customer shall pay Kronos all fees then due and owing for the Services prior to the date of termination following submission of invoices and proper proof of Kronos' claim and in accordance with the payment terms set forth in Section 4 (Payment terms and Additional Rights and Remedies) of the Umbrella Agreement. If Customer has prepaid any fees, Kronos shall refund Customer any pre-paid fees for Services not delivered by Kronos;
- (b) Subject to and except as is necessary to effectuate subsection (c) and Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, Customer's right to access and use the Applications shall be revoked and be of no further force or effect;
- (c) Subject to and except as is necessary to effectuate Sections 9.7 (Vendor Cooperation/Transition Services), 10.4 (Open Records and Electronic Discovery Requests and Records Retention), and 11.4.1 (Retention of Customer Data) of the Umbrella Agreement, for no more than thirty (30) days after termination, Kronos will make available to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and will securely delete any or all Customer Content without liability;
- (d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, destroy such materials and provide Kronos with an officer's certification of the destruction thereof; and
- (e) All provisions in the Agreement, which by their nature are intended to survive termination, shall so survive.

2.6 Consistent with and in addition to any rights, duties, or obligations set forth in Section 11.4.1 (Import and Export of Data) of the Umbrella Agreement, Customer or its Authorized Contractors shall have the ability to import or export Customer Content to or from the Cloud Services during the Term at no charge, without interference from Contractor. Customer Content shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for as long as mutually agreed to by the Parties after expiration or termination of the Agreement for any reason (including as may be agreed to in the Umbrella Agreement).

3. FEES AND PAYMENT

3.1 Customer shall pay Kronos the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form, and as is otherwise in accordance with Section 4 (Compensation and Additional Rights and Remedies) of the Umbrella Agreement. Billing will commence on the Billing Start Date with the Monthly Service Fees to be billed on the frequency set forth on the Order Form ("Billing Frequency").

3.2 Subject to the terms and conditions of the Umbrella Agreement, the Setup Fees shall be invoiced in accordance with the applicable Purchasing Instrument. Customer acknowledges that setup fees may be charged to Customer by Third Parties for Add-on Features. Third Party setup and monthly fees shall be set forth on an Order Form. Subject to the terms and conditions of the Umbrella Agreement, Monthly Service fees shall be based on monthly periods that begin on the Billing Start Date. Monthly Service Fees for Services added on or before the 15th day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15th day of a given month will begin to accrue as of the 1st day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Kronos will monitor Customer's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; (c) per transaction basis (e.g.: pay statement); or, (d) per access point. For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; or (vi) such employee has been marked by Customer as having an "Active" status during the period.

3.3 In consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") which shall be calculated by Kronos based on the amounts identified on all Order Forms for Customer's Usage of the Services. In the event that Customer does

not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees up to and including the last day of the month in which the effective date of termination occurs.

3.4 If any undisputed amount owing between the parties is thirty (30) or more days overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Services until such undisputed amounts are paid in full. Kronos will provide at least fourteen (14) days' prior written notice that Customer's account is overdue before suspending Services.

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

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of these Special Terms and Conditions and the Agreement, Kronos hereby grants Customer, Customer Users, and Customer's Authorized Contractors for Customer's governmental and business activities and purposes, including for the provisioning of information and services to Customer Users, during the Term a limited, revocable, non-exclusive license to: (i) access, use, execute, configure and test the Applications and related Services including any embedded Third Party software, libraries, or other components, which form a part of the Services; and (ii) access, use, reproduce, and internally distribute (i.e., subject to obligations of confidentiality) any related Documentation. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Customer acknowledges and agrees that the right to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any Third Party, with the exception of Authorized Contractors; provided that in the case of the restructuring or consolidation of any Customer, including becoming or being integrated into a new or different Governmental Entity, Customer may assign its rights and obligations in or to such software to any successor Governmental Entity. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos; provided that where Customer is a centralized administrative agency, subunit, or division of a larger Governmental Entity, Customer may provide data processing services or otherwise make the use of the Software to fulfill its duties and responsibilities on behalf of the larger Governmental Entity without the prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder. When using and applying the information generated by the Services, Customer is responsible for ensuring that Customer complies with applicable laws and regulations.

4.2 Customer may authorize its Third Party contractors, consultants, and Authorized Contractors to access the Services through Customer's administrative access privileges on an as needed basis, provided Customer: a) abides by its obligations to protect Confidential Information as set forth in this Agreement; b) remains responsible for all such Third Party usage and compliance with the Agreement; and c) does not provide such access to a competitor of Kronos who provides workforce management services, which competitor has been identified in Exhibit B 1 of these Special Terms and Conditions.

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

4.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, Third Party applications, general enhancements) available to Customer at no charge as they are released generally to its customers as part of the Services. Customer agrees to receive those updates automatically as part of the Services. In the event of such updates, the new version of the Services shall continue to comply with all of the requirements of the Agreement. If any updates result in material adverse effects on functionality or operation of the Services, including, but not limited to, a failure to comply with the requirements of this Agreement, or compatibility with Customer's business, governmental, legal, funding or regulatory requirements, then Customer may in its sole discretion terminate the applicable Purchasing Instrument immediately upon notice and without penalty or liability. Kronos also may offer new products and/or services to Customer at an additional charge. Customer shall have the option of purchasing such new products and/or services under a separate Order Form.

4.5 Kronos reserves the right to change the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies; provided that, in the event of such changes, the new version of the Services shall continue to comply with all of the requirements of the Agreement. If any updates result in material adverse effects on functionality or operation of the Services, including, but not limited to, a failure to comply with the requirements of this Agreement, or compatibility with Customer's business, governmental, legal, funding or regulatory requirements, then Customer may in its sole discretion terminate the applicable Purchasing Instrument immediately upon notice and without penalty or liability. Customer's continued use of the Services after Kronos posts or otherwise notifies Customer of any changes indicates Customer's agreement to those changes.

5. ACCEPTABLE USE

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

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

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

6. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, Third Party services and related equipment and components); and subject to Section 11.5 of the Umbrella Agreement, (b) provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement. Kronos is hereby (i) granted access to such Customer data to perform its obligations under the Agreement and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage.

7. IMPLEMENTATION AND SUPPORT

7.1 Reserved.

7.2 *Standard Support.* Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos Customer Portal.

7.3 *Equipment Support.* If Equipment Support Services are purchased for Equipment purchased in accordance with Section 9.2 below, Kronos will provide the following Depot Exchange Support Services to Customer:

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

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

(c) Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.

7.4 *Educational Materials and Content.* Customer will have access to certain educational materials and content (the "Educational Content") within the Services. Customer recognizes and agrees that the Educational Content is copyrighted by Kronos. Customer is permitted to make copies of the Educational Content provided in .pdf form solely for Customer's internal training purposes and may not disclose such Educational Content to any Third Party other than Customer's employees or Authorized Contractors. Customer may not edit, modify, revise, amend, change, alter, customize or vary the Educational Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's internal use.

8. CUSTOMER CONTENT

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers. In addition, Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with the Agreement and applicable law.

9. EQUIPMENT

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

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

- a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).
- b) Equipment Support. Kronos shall provide to Customer the Equipment support services described in this Agreement if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services may be renewed for additional one-year terms on the anniversary of its commencement date ("Renewal Date") by written notice from the Customer at least thirty (30) days prior to the expiration of any upcoming expiring support-service term, Kronos will notify Customer at least sixty (60) days but no longer than ninety (90) days prior to the expiration of any upcoming expiring support-service term. Kronos may change the annual support charges for Equipment support services effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification.

10. SERVICE LEVEL AGREEMENT

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

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

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

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

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

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

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

Exhibit B-1 of Section B

Entities Kronos Identifies as Competitors

ADP
Apex Time Solutions
Ceridian
Emerald City Software
Empower Epicor
Executime
Frontline Technologies
High Line Corporation
Infor
IntelliTime
inTime
JDA Software
NetSuite
NOVAtime
OnShift
Oracle
Paychex
PayChoice
Paycom
Paycor
Sage
SAP
Silver
Brook
Systems
SumTotal
Sungard
TimeClock Plus
Tyler Technologies
Ultimate Software
Workday
Workforce Software