



L. BROOKS PATTERSON-COUNTY EXECUTIVE
**OAKLAND COUNTY
PURCHASING DIVISION**

RLB Information Technology

EVENT 002590A

OAKLAND COUNTY COMPLIANCE OFFICE - PURCHASING DIVISION

PROFESSIONAL SERVICE CONTRACT NUMBER: 004287

Contract Expiration Date: 10/31/ 2017

Contract - NOT TO EXCEED AMOUNT \$ 100,000.00

This "Contract" is made between the COUNTY OF OAKLAND, a Michigan Constitutional Corporation, hereinafter called "County" and the "Contractor" as further described in the following Table. In this Contract, either Contractor or the County may also be referred to individually as a "Party" or jointly as the "Parties".

COUNTY OF OAKLAND 2100 Pontiac Lake Road Waterford, MI 48328 (herein, the "County")	KRONOS INCORPORATED <i>Legal Dept. Connie Strand</i> 297 Billerica Road Chelmsford, MA 01824 Vendor I. D. No. 248 (herein the "Contractor")
--	--

90 12/3/14

This Contract is organized and divided into the following "Section" or "Sections" for the convenience of the Parties.

- SECTION 1. CONTRACT PURPOSE
- SECTION 2. CONTRACT DOCUMENTS AND DEFINITIONS
- SECTION 3. CONTRACT EFFECTIVE DATE AND TERMINATION
- SECTION 4. SCOPE OF CONTRACTOR'S SERVICES
- SECTION 5. COUNTY PAYMENT OBLIGATION FOR CONTRACTOR'S SERVICES
- SECTION 6. SOFTWARE LICENSE AND SUPPORT
- SECTION 7. CONTRACTOR ASSURANCES AND WARRANTIES
- SECTION 8. DATA SECURITY AND CONFIDENTIAL INFORMATION
- SECTION 9. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION
- SECTION 10. GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

§1. CONTRACT PURPOSE

- 1.1. After a competitive bidding and selection process by County, Contractor was chosen to provide services and products, described more fully in the Scope of Services Exhibits and Order Form (Exhibit VI) to County. Contractor desires to extend the terms and conditions in this Contract to a PPB, to enable it to make purchases from Contractor according to the terms herein. A model Agreement to be used by Participating Public Bodies is provided in Exhibit VIII. Contractor may negotiate customized terms with the PPB at its own discretion. Contractor is under no obligation to provide services described in this Contract to a PPB if the parties are not able to agree on customized terms.
- 1.2. County shall not be a party to a contract between Contractor and a PPB. County shall not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 1.3. Participating Public Bodies must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries. Failure to do so may result in County removing the Contract and Contractor's Information from the G2G MarketPlace Website upon a thirty (30) day notice to cure if such failure is not cured.
- 1.4. County shall place this Contract and any amendments to it, on its G2G MarketPlace Website. County will provide the following information on its G2G MarketPlace Website:
 - 1.4.1. Identify Contractor on its G2G MarketPlace Website, this Contract and amendments, if applicable, and a summary of the services and products.
 - 1.4.2. State that the Contract was the result of a competitive bidding process.
 - 1.4.3. Provide Contractor's phone and email address for inquiries.
 - 1.4.4. Acknowledge that County and the PPB will receive a benefit from purchases subject to this Contract.
 - 1.4.5. Provide a County contact to answer questions concerning the expiration date of the Contract, the procedure for purchasing off the Contract, and the competitive bidding process followed by County.
 - 1.4.6. Contractor shall provide County with the following information and update it timely when changed:
 - 1.4.6.1. The names of two representatives to act as a primary and secondary point of contacts for this Contract. Contractor shall timely notify County of any changes to its two representatives.
 - 1.4.6.2. A brief description of Contractor's services and products, telephone numbers and e-mail addresses to use to receive information about this Contract and training opportunities.
- 1.5. In recognition of the benefits to Contractor for County providing information to Participating Public Bodies and potential participants, and the costs savings to Contractor for having this information available, Contractor shall provide County the price reductions described in a later section. The Parties agree that the services and products available under this Contract are available at the price outlined in Exhibit VII. The prices outlined in the Exhibit VII may be subject to adjustments on an annual basis with both parties consent.

§2. CONTRACT DOCUMENTS AND DEFINITIONS

The following words and expressions when printed with the first letter capitalized as shown herein, whether used in the singular or plural, nominative or possessive case, and/or either with or without quotation marks, shall be defined and interpreted as follows:

- 2.1. "Claims" means any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of which are imposed on, incurred by, or asserted against the County from a third party, or for a third party claim against the County for which the County may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.
- 2.2. "Confidential Information" means records that are exempt from disclosure under the Michigan Freedom of Information Act, which provides an exemption for records specifically exempted from disclosure by another statute, which includes records protected by federal intellectual property laws.
- 2.3. "Contract Documents" This Contract includes and fully incorporates herein all of the following documents for the selected Scopes of Services:
- 2.3.1. Exhibit I: Contractor Insurance Requirements
 - 2.3.2. Exhibit II: Selection of Scope of Contractor's Services to be Performed
 - 2.3.3. Exhibit III: Scope of Contractor's Services #1 - Workforce Central Software as a Service Terms
 - 2.3.4. Exhibit IV: Scope of Contractor's Services #2 - Workforce Ready® Software as a Service Terms
 - 2.3.5. Exhibit V: Sample Contract Amendment Form
 - 2.3.6. Exhibit VI: Order Forms
 - 2.3.7. Exhibit VII: Pricing
 - 2.3.8. Exhibit VIII: PPB Model Agreement
- 2.4. "Contractor Employee" means without limitation, any employees, officers, directors, members, managers, trustees, volunteers, attorneys, and representatives of Contractor, and also includes any Contractor licensees, concessionaires, contractors, subcontractors, independent contractors, contractor's suppliers, subsidiaries, joint ventures or partners, and/or any such persons, successors or predecessors, employees, (whether such persons act or acted in their personal, representative or official capacities), and/or any and all persons acting by, through, under, or in concert with any of the above. "Contractor Employee" shall also include any person who was a Contractor Employee at any time during the term of this Contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
- 2.5. "County" means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees, and "County Agent" as defined below.
- 2.6. "County Agent" means all elected and appointed officials, directors, board members, council members, commissioners, employees, volunteers, representatives, and/or any such persons' successors (whether such person act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them. "County Agent" shall also include any person who was a "County Agent" anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and serving as an Agent.
- 2.7. "County Data" means any personally identifiable information such as names, e-mail addresses, passwords, phone numbers, home or business addresses, subscription profile and any other information that may identify a person as well as information provided by County for the operation of Contractor's services described in the Exhibits. This includes Confidential Information.
- 2.8. "Day" means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.

- 2.9. "E-Verify" is an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their new hired employees. Contractor may obtain more information and register at <https://e-verify.uscis.gov/enroll/>.
- 2.10. "G2G MarketPlace Website" means an Internet site used by County to provide information to Participating Public Bodies about businesses providing services to County and agreements used by County and available to Participating Public Bodies to procure services.
- 2.11. "Iran Linked Business" has the same meaning as "Iran Linked Business" defined in MCL 129.312 being Section 2 of 2012 P.A. 517.
- 2.12. "PPB" stands for Participating Public Body, which means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access County's G2G MarketPlace Website.

§3. CONTRACT EFFECTIVE DATE AND TERMINATION

- 3.1. The services and products provided herein shall not be provided to County until requested by County.
- 3.2. The expiration date of this Contract shall be as stated on the first page of this Contract, and unless otherwise terminated or canceled as provided below, it shall end at 11:59:59 p.m. at which time this Contract expires without any further act or notice of either Party being required. The Parties may renew the Contract for two successive one year terms. Notwithstanding the above, under no circumstances shall this Contract be effective and binding and no payments to the Contractor shall be due or owing for any Contractor services until and unless:
- 3.2.1. This Contract is signed by an officer of Contractor, legally authorized to bind the Contractor.
- 3.2.2. Any and all Contractor Certificates of Insurance and any other conditions precedent to the Contract have been submitted and accepted by the County.
- 3.2.3. This Contract is signed by an authorized agent of the Oakland County Purchasing Division.
- 3.3. Under no circumstances shall the County be obligated to pay the Contractor for any Services rendered or products delivered which have not been invoiced, as required herein, within sixty (60) days of the date such products were actually delivered to the County or Services were actually rendered pursuant to this Contract.
- 3.4. The County may terminate and/or cancel this Contract (or any part thereof) at any time during the term, any renewal, or any extension of this Contract, upon ninety (90) days written notice to the Contractor, for any reason, including convenience without incurring obligation or penalty of any kind except for the payment of the products and services delivered and performed. The effective date for termination or cancellation shall be clearly stated in the written notice.
- 3.5. The County's sole obligation in the event of termination is for payment for actual services rendered by the Contractor and products delivered before the effective date of termination. Under no circumstances shall the County be liable for any future loss of income, profits, any consequential damages or any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination and/or cancellation of this Contract. The County shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein.
- 3.6. Contractor may terminate and/or cancel this Contract (or any part thereof) at any time thirty days (30) days written notice to the County, if the County defaults in any obligation contained herein, and within the thirty (30) notice period the County has failed or has not attempted to cure any such default. The effective date of termination and/or cancellation and the specific alleged default shall be clearly stated in the written notice.
- 3.7. The termination of this Contract shall have no effect with a signed PPB Agreement.

§4. SCOPE OF CONTRACTOR'S SERVICES

- 4.1. Contractor shall perform all services and products selected on Exhibit II, Selection of Scope of Contractor's Services to be performed. An amendment to the Contract is required to add additional Exhibits (and their associated services). A Sample Contract Amendment Form is provided in Exhibit V, which may be used to add additional services after the Contract is executed.

§5. COUNTY PAYMENT OBLIGATIONS FOR CONTRACTOR'S SERVICES

- 5.1. Except as otherwise expressly provided for in this Contract, the County's sole financial obligation to the Contractor for any Contractor services under this Contract shall be:
- 5.1.1. In no event, shall the County's amount due and owing the Contractor for any and all services rendered exceed the amount identified as the "NOT TO EXCEED AMOUNT" on the first page of this Contract. In the event the Contractor can reasonably foresee the total billings for its services will exceed this "NOT TO EXCEED AMOUNT", the Contractor shall provide the County with notice of this contingency at least fifteen (15) Days before this event.
 - 5.1.2. Contractor may not invoice County for services and products until County has ordered and requested Contractor to begin providing those services and/or products. No more than once a month, the Contractor shall submit an invoice to the County which shall itemize all amounts due and/or owing by the County under this Contract, as the date of the invoice. The invoices shall be submitted in the form consistent with the Agreement and in accordance with the order. The County shall have no obligation to make payment an invoice which is subject to a good faith dispute. If County chooses to pay on an annual basis, Contractor shall provide one invoice, sixty days prior to the anniversary of the Contract Effective date. County shall provide evidence of its status as a tax exempt entity. Upon providing suitable evidence to Contractor, County shall not be invoiced for such taxes.
 - 5.1.3. County shall provide Contractor with evidence of its status as a tax exempt entity. Upon presentation of the tax exemption certificate to Contractor, County will not be charged taxes for which it is exempt.
 - 5.1.4. From the second year of the Contract, Contractor will provide through issuance of an annual credit valid for one year or other means an administrative fee to the County. The administrative fee, will correspond to three percent (3%) of the revenue Contractor has received from contracts it has entered into with PPBs who are receiving services from Contractor based on the G2G MarketPlace Contract. The administrative fee is solely applicable if Contractor enters into G2G MarketPlace contracts with PPBs and receives payments from the PPB for the services rendered. In no event shall the total annual administrative fee be greater than the annual total value of the services ordered by the County.
- 5.2. Under no circumstances shall the County be responsible for any cost, fee, fine, penalty, or direct, indirect, special, incidental or consequential damages incurred or suffered by Contractor in connection with or resulting from the Contractor's providing any services under this Contract.
- 5.3. This Contract does not authorize any in-kind services by either Party, unless expressly provided for herein.
- 5.4. During the term of the Contract, and provided that the County and the PPB remains in compliance with the MarketPlace Contract, the Contractor will maintain the pricing set forth in Exhibit VII. The Parties may, based of different market considerations, renegotiate in good faith such pricing.

§6. SOFTWARE LICENSE AND SUPPORT

- 6.1. Contractor shall grant County a license to the software request by County and described in Exhibit II to this Contract and subject to the applicable terms (Exhibit III or IV). Contractor shall also provide support services as described in the Exhibits selected.

- 6.2. County acknowledges that the equipment and software provided by Contractor may be restricted by the United States Government. County is a governmental entity and will not export any of the products or serviced provided by Contractor.

§7. CONTRACTOR'S ASSURANCES AND WARRANTIES

- 7.1. Contractor certifies that all statements, assurances, records, and materials submitted to County in connection with securing this Contract have been truthful, complete, and accurate in all respects. Contractor agrees and understands that any material false statement, representation, or omission made in connection with its seeking or obtaining this Contract may be grounds for canceling or terminating this Contract and/or debarring the Contractor from future County contracts. The County's right to cancel this Contract as provided herein shall be in addition to any other rights the County has to terminate or cancel this Contract.
- 7.2. Service Warranty. Contractor warrants that all services performed hereunder will be performed in a manner that complies with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 7.3. Business and Professional Licenses. The Contractor will obtain and maintain, at all times during the term of this Contract, all applicable business and professional licenses necessary to provide the contracted services.
- 7.4. Equipment and Supplies. The Contractor is responsible for providing equipment ordered by the County.
- 7.5. Taxes. The Contractor shall pay its own local, state, and federal taxes, including without limitation, social security taxes and unemployment compensation taxes. The County shall not be liable to or required to reimburse the Contractor for any federal, state and local taxes, or fees of any kind.
- 7.6. Contractor's Incidental Expenses. Except as otherwise expressly provided in this Contract, the Contractor shall be solely responsible and liable for all costs and expenses incident to the performance of all services for the County including, but not limited to, any professional dues, association fees, license fees, fines, taxes based on revenue, and penalties.
- 7.7. E-Verify.
- 7.7.1. In accordance with Miscellaneous Resolution No. 09116 (BOC Minutes, July 30, 2009, pp. 37-38), unless otherwise exempted, all service Contractors who wish to contract with the County to provide services must first certify they have registered with, will participate in, and continue to utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractors. Breach of this term or conditions is considered a material breach of this Contract.
- 7.7.2. Contractor's execution of this Contract constitutes a certification that they are authorized to certify on behalf of Contractor and do hereby certify on behalf of Contractor that the Contractor has registered with, has and will participate in, and does and will continue to utilize once registered and throughout the term of this Contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor.
- 7.7.3. All newly hired Contractor Employees in the United States, unless otherwise excluded under Misc. Resolution No. 09116 must undergo employment eligibility verification through the E-Verify system. Failure to verify newly hired employees is a material breach of this Contract. The Parties acknowledges that a subcontracting company used by Contractor will be responsible for performing verification E-Verify on their employees. Contractor shall make this a requirement in any contract it has with subcontractors to provide services on site specifically under this Contract.

7.8. Contractor Employees.

- 7.8.1. Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to provide the services under this Contract. Contractor shall ensure all Contractor Employees have all the necessary knowledge, skill, and qualifications necessary to perform the required services and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 7.8.2. Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employee.
- 7.8.3. All Contractor Employees shall wear and display appropriate County-provided identification at all times while working on County premises. Contractor shall return all County provided identification upon completion of the last day of services provided under this Contract.
- 7.8.4. All Contractor Employees assigned to work at the County's site under this Contract may, at the County's reasonable discretion, be subject to a security check and clearance by the County. Contractor confirms that as part of its hiring process, new employees go through a background check.
- 7.8.5. The County acknowledges that when a Contractor uses subcontractors for services under this Contract, Contractor shall require its subcontractor to follow these provisions; however, Contractor is responsible for the performance and compliance of its subcontractors.

7.9. Contractor Employee-Related Expenses. All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance) and Contractor warrants that all Contractor Employees shall fully comply with and adhere to all of the terms of this Contract. Contractor shall be solely and completely liable for any and all applicable Contractor Employee federal, state, or local payment withholdings or contributions and/or any and all Contractor Employee related pension or welfare benefits plan contributions under federal or state law. Contractor shall indemnify and hold the County harmless for all Claims against the County by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between the Contractor and any Contractor Employee, including, but not limited to, Worker's Compensation, disability pay or other insurance of any kind.

7.10. Full Knowledge of Service Expectations and Attendant Circumstances. Contractor acknowledges that before submitting its Proposal and/or entering into this Contract, it had a full opportunity to review the proposed services, and review all County requirements and/or expectations in the RFP documents. The Contractor is responsible for being adequately and properly prepared to execute this Contract. Contractor has satisfied itself in all material respects that it will be able to perform all obligations under the Contract as specified herein.

7.11. The Contractor's Relationship To The County Is That Of An Independent Contractor. Nothing in this Contract is intended to establish an employer-employee relationship between the County and either the Contractor or any Contractor Employee. All Contractor Employees assigned to provide services under this Contract by the Contractor shall, in all cases, be deemed employees of the Contractor and not employees, agents, or sub-contractors of the County.

§8. DATA SECURITY AND CONFIDENTIAL INFORMATION

- 8.1. The Contractor and/or Contractor Employees shall not reproduce, provide, sell, disclose, or give access to Confidential Information to any third party, or to any Contractor Employee not having a legitimate need to know such information, and shall not use the Confidential Information for any purpose other than performing its services under this Contract. Notwithstanding the foregoing, Contractor may disclose Confidential Information if required by law, statute or other legal process; provided that Contractor (i) gives County prompt written notice of an impending disclosure, (ii) provides reasonable assistance to County in opposing or limiting the disclosure, and (iii) makes only such disclosure as is compelled or

required. This does not apply to Confidential Information which Contractor can establish was in the possession of Contractor prior to its receipt from County, without an obligation to keep the information confidential.

- 8.2. The Security of Data is subject to the applicable terms in Exhibit III or IV.
- 8.3. Contractor shall provide its services to County primarily from data centers in the United States and in compliance with the applicable Exhibit. In the case of an emergency, Contractor may temporarily provide services to County from a data center outside of the United States and shall provide County with notice of this temporary move. Contractor shall not allow its Contractor Employees to store County Data on portable devices, including personal computers, except for services that are provided and kept only for the sole purpose of this Contract. Contractor shall permit its Contractor Employees to access County Data remotely, only as required, to provide technical support.
- 8.4. If County receives a Freedom of Information Act request ("FOIA"), Court Order or other legal request to provide County Data held by Contractor, Contractor shall provide County Data in a useable format, to County within the time frame required by law.
- 8.5. Upon expiration or termination of this Contract, Contractor shall implement an orderly return of County Data in a mutually agreeable format or to provide for the secure disposal of County Data, if directed by County. Such return will be in compliance with Exhibit III or IV as the case may be.
- 8.6. Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character. Notwithstanding the foregoing, a Party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Contract or (c) by law (including the applicable public record laws and FOIA), or by a court or governmental agency, or if necessary in any proceeding to establish rights or obligations under the Contract; provided, the receiving Party shall, unless legally prohibited use best efforts to, provide the disclosing Party with reasonable prior written notice sufficient to permit the disclosing Party an opportunity to contest such disclosure.
- 8.7. This Contract imposes no obligation upon either party with respect to the other Party's Confidential Information which the receiving Party can establish by legally sufficient evidence: (a) was rightfully possessed by the receiving Party without an obligation to maintain its confidentiality prior to receipt from the disclosing Party, (b) is generally known to the public without violation of this Contract; (c) is obtained by the receiving Party in good faith from a third party having the right to disclose it without an obligation with respect to confidentiality; (d) is independently developed by the receiving Party without use of the disclosing Party's confidential information, which can be shown by tangible evidence.

§9. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION


- 9.1. Indemnification.
 - 9.1.1. Contractor shall indemnify and hold the County harmless from any and all Claims which are incurred by or asserted against the County by any person or entity, to the extent alleged to have been caused or found to arise, from the negligent acts, performances, errors, or omissions of Contractor or Contractor's Employees all Claims relating to injury or death of any person or damage to any property.
 - 9.1.2. The indemnification rights contained in this Contract are in excess and over and above any valid and collectible insurance rights/policies.
 - 9.1.3. Contractor shall have no rights against the County for any indemnification (e.g., contractual, equitable, or by implication), contribution, subrogation, and/or any other right to be reimbursed by the County except as expressly provided herein .
 - 9.1.4. If Contractor has Contractor Employees working on County's premises at any time and to the extent not caused by the County or its employees, officials or contractual, Contractor waives and releases all actions, liabilities, loss and damage including any subrogated rights

it may have against the County based upon any Claim brought against the County suffered by a Contractor Employee.

9.2. Contractor Provided Insurance.

9.2.1. At all times during this Contract, Contractor shall obtain and maintain insurance according to the specifications in Exhibit I.

§10. GENERAL TERMS AND CONDITIONS

- 10.1. Access To County Facilities. While the Contractor retains the right to perform services at any time, the Contractor must obtain prior permission by the County for access to County facilities after the County's regular business hours.
- 10.2. Trademark/ServiceMark License. Contractor grants County, a license to place Contractor's trademark, servicemark, or logo in the colors, fonts and proportion provided to County, on County's G2G MarketPlace Website. This license also extends to any printed materials County uses to promote its G2G MarketPlace. County does not possess any other rights to Contractor's marks or logos. County grants to Contractor a license to use its servicemark, in the same manner as shown here, on the website pages  Contractor uses for County end users to register for services under this Contract and to update their preferences.
- 10.3. Cumulative Remedies. A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative to the extent consistent with the terms of the Contract. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 10.4. Survival of Terms and Conditions. The following terms and conditions shall survive and continue in full force beyond the termination and/or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their very nature:
"DATA SECURITY AND CONFIDENTIAL INFORMATION "
"CONTRACTOR'S ASSURANCES AND WARRANTIES";
"CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION";
"Damage Clean Up To County Property and/or Premises";
"Audit";
"Severability";
"Governing Law/Consent To Jurisdiction And Venue"; and
"Survival of Terms And Conditions".
- 10.5. County Right to Suspend Services. Upon written notice, the County may suspend performance of this Contract if Contractor has failed to comply with applicable Federal, State, or Local laws, or any requirements contained in this Contract. The right to suspend services is in addition to the County's right to terminate and/or cancel this Contract. The County shall incur no penalty, expense, or liability to Contractor if the County suspends services under this Section.
- 10.6. No Third Party Beneficiaries. Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' rights in this Contract, and/or any other right, in favor of any other person or entity.
- 10.7. Compliance with Laws. Both parties shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.
- 10.8. Permits and Licenses. Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, and governmental authorizations necessary to perform all of its obligations under this Contract and to conduct business under this Contract. Upon request by

the County, Contractor shall furnish copies of any permit, license, certificate or governmental authorizations necessary to provide services under this Contract.

- 10.9. Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, or handicap in violation of State and Federal law.
- 10.9.1.** Contractor shall promptly notify the County of any complaint or charge filed and/or determination by any Court or administrative agency of illegal discrimination by Contractor.
- 10.9.2.** The County, in its discretion, may consider any illegal discrimination described above as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 10.10. Reservation of Rights.** This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the County. Provided the County hereby acknowledges its obligations under this Contract.
- 10.11. Force Majeure.** Notwithstanding any other term or provision of this Contract, neither Party shall be liable to the other for any failure of performance hereunder if such failure is due to any cause beyond the reasonable control of that Party and that Party cannot reasonably accommodate or mitigate the effects of any such cause. Such cause shall include, without limitation, acts of God, fire, explosion, vandalism, any law, order, regulation, direction, action, or request of the United States government or of any other government, national emergencies, insurrections, riots, wars, strikes, lockouts, work stoppages, or other labor difficulties. Reasonable notice shall be given to the affected Party of any such event.
- 10.12. Conflict of Interest.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.321, et seq.), no contracts shall be entered into between the County, including all agencies and departments thereof, and any County Agent. To avoid any real or perceived conflict of interest, Contractor shall identify, to the best of its knowledge, any Contractor Employee or relative of Contractor's Employees who are presently employed by the County. Contractor shall give the County notice if there are any County Agents or relatives of County Agents who are presently employed by Contractor.
- 10.13. Iran Linked Business.** Contractor certifies that it is not an Iran Linked Business. Contractor further certifies that it was not an Iran Linked Business at the time that it submitted its bid on a request for proposal for this Contract.
- 10.13.1.** Contractor must promptly notify the County if Contractor becomes an Iran Linked Business at any time during the term of this Contract including renewals or extensions.
- 10.13.2.** The County may consider any change in Contractor's status to an Iran Linked Business as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 10.14. Damage Clean-up to County Property and/or Premises.** If Contractor has Contractor Employees on County's premises, Contractor shall be responsible for any unexpected and/or unnecessary damage to any County tangible property, its premises, or a County Agent that is caused by Contractor or Contractor's Employees while performing services. If damage occurs, Contractor shall make necessary repairs and/or replacements to the damaged tangible property to the satisfaction of the County. If the clean-up cannot be completed to the County's satisfaction, Contractor shall reimburse the County the actual cost for repairing or replacing the damaged tangible property. The Contractor shall be responsible for assuring that all County and municipal sites are restored to their original condition in relation with such damages to the County's tangible property .
- 10.15. Contractor Use of County Licensed Software.** In order for the Contractor to perform its services under this Contract, the County may permit Contractor or Contractor Employees to access certain Software licensed to the County. Contractor or Contractor Employees shall not: transfer, remove, use, copy, or otherwise provide or make available any such copyrighted Software or Documentation to any other person or entity, for any purpose, without the prior written consent of the County and/or the licensor. Furthermore, neither the Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any Software. Neither the Contractor nor Contractor

Employee shall use any software contrary to the provisions of any applicable Software license agreement or state or federal law.

- 10.16. Grant Compliance. If any part of this Contract is supported or paid for with any state or federal funds granted to the County, the Contractor shall comply with all applicable grant requirements. County shall provide Contractor with a copy of the grant agreement in advance with the applicable additional terms applicable to this Contract and also acknowledge its acceptance of such terms in writing. If the Parties agree to the additional terms, this Contract will be amended with both Parties consent.
- 10.17. Project Managers. Unless otherwise agreed to by the Parties, each Party shall designate an employee or agent to act as a Project Manager. The Project Managers shall serve as a contact point for all matters related to the services to be performed under this Contract. The Contractor's Project Manager shall coordinate with the County's Project Manager; the Contractor shall provide the name and qualifications of its Project Manager and an alternate.
- 10.18. Contract Administrator. Each Party may designate an employee or agent to act as Contract Administrator. The County's Contract Administrator shall be responsible for such activities as monitoring deliverables and addressing the quality of services provided by the Contractor, reviewing invoices, and submitting requests to the County's procurement authority for any contract modification in accordance with Section 10.29 of this Contract.
- 10.19. Dispute Resolution. All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Managers and Contract Administrators for possible resolution. The Project Managers and Contract Administrators may promptly meet and confer in an effort to resolve such dispute. If the Project Managers cannot resolve the dispute in five (5) business days, the dispute may be submitted to the signatories of this Contract or their successors in office. The signatories of this Contract may meet promptly and confer in an effort to resolve such dispute.
- 10.20. Evaluation. Contractor agrees to the following for the WorkForce Ready and WorkForce Central in the Contractor Private Cloud environments only: Contractor maintains hosting environments that undergo examinations from independent auditors in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e., SOC 1) and the AICPA Trust Services principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e., SOC 2). The Contractor cloud environments are evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The Contractor cloud infrastructure reside in a data centers that undergo SSAE 16 examinations. Management access to Contractor cloud environments is limited to authorized Contractor support staff and customer authorized integrations. The security architecture has been designated to control appropriate logical access to the infrastructures to meet the Trust Services Principles of Security, Availability and Confidentiality. The Applications provide the County with the ability to configure applications security and logical access per the County's business processes.
- 10.21. Access and Records. Contractor will maintain accurate financial books and records in connection with the services provided under this Contract for thirty-six (36) months after end of this Contract, and provide the County with reasonable access to such book and records during Contractor's regular business hours and after Contractor has received reasonable advanced notice from County.
- 10.22. Audit. Contractor shall allow the County's Auditing Division, or an independent auditor hired by the County, to perform contract compliance audits with the authority to access all pertinent financial records and interview any Contractor Employee throughout the term of this Contract, and for a period of three years after final payment. County shall provide thirty (30) days advance written notice of its intent to audit and may not conduct an audit more than once a year. The access is solely limited in relation with verification of the invoices sent in accordance with the Contract. In no event shall the right of Access and Records stated above or right of Audit extend to any Contractor Employee or premises in relation with Cloud facilities, engineering of the products, development of products or services or other customer's information.

Contractor shall explain any audit finding, questionable costs, or other Contract compliance deficiencies to the County within thirty (30) business days of receiving the draft audit report or such longer period agreed to by the Parties. Contractor's written response shall include all necessary documents and information that refute the draft audit report, and an action plan to resolve the audit findings. A copy of the Contractor's response will be included in the final report.

- 10.23. Delegation /Subcontract/Assignment.** The County may not delegate or assign this Contract without Contractor prior written consent, which consent shall not be unreasonably withheld. Contractor shall not delegate, assign, or subcontract any obligations or rights under this Contract without the prior written consent of the County.
- 10.23.1.** The rights and obligations under this Contract shall not be diminished in any manner by assignment, delegation, or subcontract.
- 10.23.2.** Any assignment, delegation, or subcontract by Contractor and approved by the County, must include a requirement that the assignee, delegee, or subcontractor will comply with the rights and obligations contained in this Contract.
- 10.23.3.** The Contractor shall remain primarily liable for all work performed by any subcontractors. The Contractor shall remain liable to the County for any obligations under the Contract not completely performed by any Contractor delegee or subcontractor.
- 10.23.4.** Should a Subcontractor fail to provide the established level of service and response, the Contractor shall contract with another agency for these services in a timely manner. Any additional costs associated with securing a competent subcontractor shall be the sole responsibility of the Contractor.
- 10.23.5.** This Contract cannot be sold.
- 10.24. Non Exclusive Contract.** No provision in this Contract limits or is intended to limit, in any way, the Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, this Contract is a non-exclusive agreement and the County may freely engage other persons to perform the same work that the Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee the Contractor or any Contractor Employee any number of fixed or certain number or quantity of hours or services to be rendered to the County.
- 10.25. No Implied Waiver.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any right or remedy under this Contract shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Contract. No waiver of any term, condition, or provision of this Contract, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.
- 10.26. Severability.** If a court of competent jurisdiction finds a term, condition, or provision of this Contract to be illegal or invalid, then the term, condition, or provision shall be deemed severed from this Contract. All other terms, conditions, and provisions of this Contract shall remain in full force and effect.
- 10.27. Captions.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. Any use of the singular or plural number, any reference to gender, and any use of the nominative or possessive case in this Contract shall be deemed the appropriate plurality, gender, or possession as the context requires.
- 10.28. Notices.** Notices given under this Contract shall be in writing and shall either be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and to the person listed below. Notice will be deemed given when one of the following occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

- 10.28.1. If notice is sent to the Contractor, it shall be addressed to the address stated on the first page of this Contract.
- 10.28.2. If notice is sent to the County, it shall be addressed to the Contract Administrator stated on the signature page of this Contract.
- 10.28.3. Either Party may change the address to which notice is sent or identify a different individual to receive notice by informing the other party in writing of the change.
- 10.29. Contract Modifications or Amendments. Any modifications, amendments, rescissions, waivers, or releases to this Contract must be in writing and agreed to by both Parties. Unless otherwise agreed, the modification, amendment, rescission, waiver, or release shall be signed by an expressly authorized Contractor Employee and by the same person who signed the Contract for the County or other County Agent as authorized by the Oakland County Board of Commissioners.
- 10.30. Precedence of Documents. In the event of a conflict between the terms and conditions in any of the documents comprising this Contract, the conflict shall be resolved as follows:
- 10.30.1. The terms and conditions contained in this main Contract document shall prevail and take precedence over any allegedly conflicting provisions in all other Exhibits or documents.
- 10.31. Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the Sixth Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction. .
- 10.32. Entire Contract. This Contract represents the entire Contract and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements or contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

The undersigned execute this Contract on behalf of Contractor and the County, and by doing so legally obligate and bind Contractor and the County to the terms and conditions of this Contract.

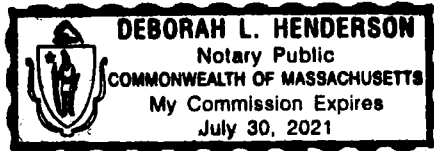
FOR THE CONTRACTOR:

BY: _____

DATE: 12/3/14

John O'Brien appeared in person before me this day and executed this Contract on behalf of Contractor and acknowledged to me under oath that he/she has taken all actions and secured any and all necessary approvals and authorizations and has the requisite authority from Contractor to fully and completely obligate and bind Contractor to the terms and conditions of this Contract and any and all other documents incorporated by reference and also acknowledged to me under oath having been provided with copies and having read and reviewed all Contract documents including all documents incorporated by reference.

Subscribed and sworn to before me on this 3rd day of December, 2014.



Deborah L. Henderson
Notary Public, State of Massachusetts,
Middlesex County

My Commission Expires: July 30, 2021
Acting in the County of Middlesex

FOR THE COUNTY:

BY: _____

DATE: 12-8-14

Pamela L. Weipert, CPA, CIA, Compliance Officer
or
Scott N. Guzzy, CPPO, MBA, Purchasing Administrator

APPROVED AS TO SCOPE OF CONTRACTOR SERVICES:

BY: _____

Edwin Poisson
Edwin Poisson
Contract Administrator

DATE: 12/5/14

Information Technology
1200 North Telegraph Road
County Service Center - Pontiac
Waterford MI 48341

aec

EXHIBIT I

CONTRACTOR INSURANCE REQUIREMENTS

1. At all times during this Contract, including renewals or extensions, Contractor shall obtain and maintain insurance according to the following specifications:
 - a. Commercial General Liability - with the following as minimum requirements:

\$3,000,000 – Each Occurrence (Total Limit)
Occurrence Form Policy
Broad Form Property Damage
Premises/Operations
Independent Contractors
Products and Completed Operations
(Blanket) Broad Form Contractual
Personal Injury - Delete Contractual Exclusion
Additional Insured: The County of Oakland and County Agents (as defined in this Contract);
 - b. Workers' Compensation - as required by law and \$500,000 Employer's Liability;
 - c. Automobile Liability and Property Damage - \$1,000,000 each occurrence, including coverage for all owned, hired and non-owned vehicles including No Fault coverage as required by law;
 - d. Professional Liability/Errors & Omissions Insurance (as applicable) - with minimum limits of \$1,000,000 per claim and \$1,000,000 dollars aggregate.
2. General Certificates of Insurance:
 - a. All Certificates of Insurance shall contain evidence of the following conditions and/or clauses and shall be sent to: The County of Oakland and County Agents, Oakland County Purchasing Division, 2100 Pontiac Lake Road, Bldg. 41W, Waterford, MI 48328-0462 or fax 248-858-1677.
 - b. The County of Oakland and County Agents (as defined in this Contract) shall be named as "General Liability" Additional Insured with respect to work performed by the Contractor.
 - c. All Certificates are to provide 30 days written notice of material change, cancellation, or non-renewal. Certificates of Insurance or insurance binders must be provided no less than ten (10) working days before commencement of work to the Oakland County Purchasing Division. Insurance carriers are subject to the approval of Oakland County.

EXHIBIT II

SELECTION OF SCOPE OF CONTRACTOR'S SERVICES TO BE PERFORMED

Contractor shall perform the following services that are checked in the boxes below:

- ☒ Exhibit III: Scope of Contractor's Services #1 Workforce Central - Software as a Service
- ☐ Exhibit IV: Scope of Contractor's Services # 2 Kronos Workforce Ready ® - Software as a Service



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

EXHIBIT III

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

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

1. DEFINITIONS

"Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Exhibit III. Multitenant Applications shall be subject to the terms and conditions of this Contract and those set forth at: <http://www.kronos.com/products/cloud/multi-tenant-description.aspx> With respect to Multitenant Applications, the terms and conditions at the foregoing url will supersede any conflicting terms in this Contract.

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

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

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

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

"Implementation Services" means those professional and educational services provided by Kronos to set up the cloud environment and configure the Services, including educational services and training. Unless otherwise set forth in a Statement of Work or in an Order Form, Kronos will provide 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

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

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

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

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

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

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

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

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

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

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



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

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

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

2. TERM

2.1 The Services shall commence on the Start Date, and shall continue for the Initial Term of these Services or until terminated in accordance with the provisions of this Contract. At the expiration of the Initial Term, the Term shall automatically renew on a month to month basis until terminated in accordance with the provisions hereof. For greater certain the parties acknowledge that the renewal of the Term may only be renewed if the Contract is still valid.

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

2.3 Either party may suspend or terminate the Services upon a material breach of this Exhibit by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services immediately upon notice in the event of any Customer breach of Sections 4 (Right to Use), 5 (Acceptable Use), or section 8 of the Contract (Data Security and Confidential Information).

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

2.5 If the Services are terminated for any reason:

2.5.1 Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued for the Services prior to the date of termination, provided that if Customer terminates for material breach of this Exhibit by Kronos, Kronos shall be responsible to refund to Customer unused pre-paid Implementation Service fees, if any;

2.5.2 Customer's right to access and use the Services shall be revoked and be of no further force or effect;

2.5.3 No more than fifteen (15) days after termination or upon Customer's written request at any time during the Term, Kronos will provide to Customer, at no charge to Customer, the Customer Content. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and may delete any or all Customer Content without liability.

2.5.4 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

2.5.5 All provisions in this Exhibit, which by their nature are intended to survive termination, shall so survive.

3. FEES AND PAYMENT

3.1 In consideration of the delivery of the Services, Customer shall pay Kronos the Monthly Service Fees, the fees for the Implementation Services and any additional one time or recurring fees for Equipment, Training Points, KnowledgePass Education Subscription and such other Kronos offerings, all as set forth on the Order Form. If Customer and Kronos have signed a Statement of Work for the Implementation Services, Implementation Services such services will be provided and payable in accordance with the Statement of Work. All fees payable for the Services shall be sent to the attention of Kronos as specified on the invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Except as expressly set forth in this Exhibit, all amounts paid to Kronos are non-refundable. Customer acknowledges that fees may be charged to Customer by third parties for add-on features or functionality provided by such third parties. Customer may be required to purchase additional Cloud Services to address infrastructure requirements as released by Kronos for a new version of a particular Application.

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

3.3 Deleted intentionally.

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

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Contract, Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Application(s) and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which are included in the Services, excluding such Third Party software, libraries or other components as are licensed directly from such Third Parties. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer

shall not reverse compile, disassemble or otherwise convert the Applications into uncompiled or unassembled code. Customer shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license agreement found at http://www.redhat.com/licenses/jboss_eula.html. Customer acknowledges that execution of separate third party agreements may be required in order for Customer to use certain add-on features or functionality, including without limitation tax filing services.

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

4.3 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) advises such third party about the obligations to protect Confidential Information as set forth in this Contract; b) ensure for all such third party usage and compliance with the Contract; and c) does not provide knowingly such access to a competitor of Kronos who provides workforce management services.

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

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

5. ACCEPTABLE USE

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

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in the Services. Customer represents and warrants to Kronos that the Customer Content: (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 hateful or threatening.

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

6. CONNECTIVITY AND ACCESS

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

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Kronos will provide the Implementation Services to Customer. Implementation Services described in a Statement of Work are provided on a time and materials basis, billed monthly as delivered. Implementation Services described in the Services Implementation Guideline are provided on a fixed fee basis. If Customer requests additional Implementation Services beyond those described in the Statement of Work, Kronos will create a change order for Customer's review and approval and any additional



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

Implementation Services to be provided by Kronos in accordance with this Exhibit. Kronos' configuration of the Applications will be based on information and work flows that Kronos obtains from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met.

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

7.3 Support. Kronos will provide 24x7 support for the 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 such updates automatically as part of the Services. Kronos' then-current Support Services Policies shall apply to all Equipment 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 Addendum and the Contract, the terms of this Addendum, then the Contract shall prevail.

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

7.4.1 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.

7.4.2 Equipment Support Service

7.4.2.1 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 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 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.

7.4.2.2 Device Software Updates Only: If Customer has selected Device Software Equipment Support Services, Customer shall be entitled to receive:

7.4.2.2.1 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

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

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

7.4.4 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:

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

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

7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is listed on an Order Form, Kronos will provide Customer with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Kronos (the "KnowledgePass Content"). Customer recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Customer is permitted to make copies of the KnowledgePass Content provided in *.pdf form solely for Customer's internal use. Customer may not disclose such KnowledgePass Content to any third party other than Customer's employees or, subject to Section 4.3 above, Customer's authorized third party contractors and consultants working on behalf of Customer. 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 session offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

7.7 Training Courses. For each SaaS application module included in the Services purchased by Customer, Customer's employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at: www.kronos.com/products/workforce-central-saas/training-guidelines.aspx. Participation in such training courses is limited to the number of seats indicated for the courses corresponding to the modules forming a part of the Services purchased by Customer.

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

8. CUSTOMER CONTENT

Customer shall own all Customer Content and posts or other inputs into the Services by Customer or others acting on behalf of or through Customer. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with this Exhibit and applicable law.

9. EQUIPMENT

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

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

9.1.1 Rental Term and Warranty Period. The term of the Equipment rental and the "Warranty Period" for such Equipment shall run contemporaneously with the Term of the other Services provided under this Exhibit.

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

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

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

9.1.5 Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 7.



L. BROOKS PATTERSON-COUNTY EXECUTIVE
**OAKLAND COUNTY
PURCHASING DIVISION**

9.1.6 Return of Equipment. Upon termination of the Services, Customer agrees that Customer shall return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from Kronos, Customer shall pay Kronos the then list price of the unreturned Equipment.

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

9.2.1 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).

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

10. SERVICE LEVEL AGREEMENT

KRONOS SHALL PROVIDE THE SERVICE LEVELS AND ASSOCIATED CREDITS, WHEN APPLICABLE, IN ACCORDANCE WITH THE SERVICE LEVEL AGREEMENT WHICH FOLLOWS SECTION 17 OF THIS EXHIBIT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE OR INTERRUPTION OF THE SERVICES OR FAILURE BY KRONOS TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN SECTION 17.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

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

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

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

11.3.1 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;

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

11.3.3 malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS EXHIBIT, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES IN THIS EXHIBIT, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, 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 EXHIBIT OF THIS CONTRACT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12. DATA SECURITY

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

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

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

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

13. INDEMNIFICATION

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

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

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

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

14. LIMITATION OF LIABILITY

14.1 EXCEPT AS SPECIFICALLY PROVIDED IN THIS EXHIBIT, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES DESCRIBED IN THIS EXHIBIT.

14.2 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 13 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS OR KRONOS' SUPPLIERS TO CUSTOMER AND/OR ANY THIRD PARTY IN CONNECTION WITH THIS EXHIBIT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

14.3 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH ABOVE AND THE REQUIREMENT IN THE CONTRACT, IN NO EVENT SHALL KRONOS OR KRONOS' SUPPLIERS, THEIR RESPECTIVE AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES, OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT OR OTHERWISE, AND REGARDLESS OF WHETHER KRONOS OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

14.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING WITHOUT LIMITATION LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING WITHOUT LIMITATION VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SAAS APPLICATIONS OR SYSTEMS, OR MACHINE ERROR.

15. EXPORT

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

16. GENERAL

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

16.2 Customer understands and acknowledges that while Kronos may disclose to Customer certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Customer is not entitled to any products or product enhancements other than those contained on the Order Form. Customer has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Contract.

17. TERMS OF THE SERVICE LEVEL AGREEMENT (SLA)

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

99.75% Application Availability

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

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

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

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

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

"**Maintenance Period**" means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

available to Customer; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Customer contact at least one day in advance of any known downtime so planning can be facilitated by Customer.

Currently scheduled Maintenance Periods for the Services are:

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

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

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

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

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

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

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



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

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

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

1. TERM

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

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

1.3 Either party may suspend or terminate the Services or the Contract upon a material breach of the Contract by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services or the Contract immediately upon notice in the event of any Customer breach of Sections 3 (License to Use), 4 (Acceptable Use), or Section 8 of the Contract (Data Security and Confidential Information), below.

1.4 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to comply with such request within ten (10) days of delivery of the request shall entitle the requesting party to have its Customer Content returned and may terminate the Contract immediately upon written notice to the other.

1.5 If the Contract is terminated for any reason:

1.5.1 Customer shall pay Kronos within thirty (30) days all fees accrued for the Services prior to the date of termination, provided that if Customer terminates Kronos for material breach of the Contract, Kronos shall be responsible to refund to Customer unused pre-paid service fees, if any;

1.5.2 Customer's right to access and use the Services shall be revoked and be of no further force or effect;

1.5.3 Within fifteen (15) days of termination Customer will retrieve Customer's historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Kronos shall have no further obligation to store and/or make available Customer's historical data and may delete same. If Customer requires additional data conversion services from Kronos, these services may be contracted from Kronos at Kronos' then published rates.

1.5.4 Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, upon prior written approval of Kronos, provide Kronos with an officer's certification of the destruction thereof; and

1.5.5 All provisions in the Contract, which by their nature are intended to survive termination, shall so survive.

2. FEES AND PAYMENT

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

2.2 The Setup Fees shall be invoiced upon execution of the Order and shall be due net 30 days following date of invoice. Customer acknowledges that setup fees may be charged to Customer by third parties for Add-on Features. Monthly Service fees shall be based on monthly periods that begin on the Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as described in Section 8 below. Monthly Service Fees for Services added on or before the 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; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Contract, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an "Active" status during the period.

2.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Section 1.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") as identified on the Order Form. The Minimum Monthly Fees shall be calculated by Kronos based on Customer's anticipated monthly Usage of the Services

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

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

2.5 Deleted Intentionally.

3. LICENSE TO USE

3.1 Subject to the terms and conditions of this Exhibit, Kronos hereby grants Customer during the Term a limited, revocable, non-exclusive, non-transferable, non-assignable license to use for internal business purposes only: a) the Kronos application(s) and related services, including applicable Services description documentation and training materials (the "Documentation"); and, b) any embedded third party software, libraries, or other components, which collectively comprise the Services. The Services contain proprietary trade secret technology of Kronos. *Unauthorized use and/or copying of such Services are prohibited by law, including United States and foreign copyright law.* Customer may use the software included in the Services in object code form only, and shall not reverse compile, disassemble or otherwise convert such software into uncompiled or unassembled code. Customer acknowledges and agrees that the license to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or third party suppliers ("Suppliers"), is granted hereunder.

3.2 Customer may authorize its third party contractors and consultants to access the Services on an as needed basis, provided Customer: a) abides by its obligations to protect confidential information; b) advises such third party about the requirements in this Exhibit IV; and c) does not knowingly provide such access to a competitor of Kronos who provides workforce management services.

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

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

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

4. ACCEPTABLE USE

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

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

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

5. CONNECTIVITY AND ACCESS

5.1 Customer acknowledges that it shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); (b) provide Kronos and its representatives with such physical or remote access to Customer's computer and network environment as Kronos and Customer deems reasonably necessary in order for Kronos to perform its obligations under this Exhibit. For greater certainty, the parties acknowledge access for availability issues and security reasons are included as reasonable reasons to provide access to Kronos. Kronos is hereby (i) granted access to such Customer data to perform its obligations under this Exhibit of this Contract and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage; (iii) make all necessary arrangements as may be required to provide such physical access to Customer's computer and network environment if necessary for Kronos to perform its obligations under this Exhibit of this Attachment.

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

6. SUPPORT

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

6.1.1 Depot Exchange Services for Equipment. As needed, Kronos will send a replacement for Equipment rented (in accordance with Section 8 below) on an advance exchange basis by next-business-day delivery, when available. When Customer receives replacement Equipment, Customer shall return the defective unit to Kronos for repair. Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.

6.1.2 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.

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

7. CUSTOMER CONTENT

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

8. EQUIPMENT RENTAL

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

8.1 The following additional terms apply only if Customer rents Equipment from Kronos:

8.1.1 Rental Term and Warranty Period. The term of the Equipment rental and the "Warranty Period" for such Equipment shall run contemporaneously with the Term of the other Services.

8.1.2 Insurance. Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from its obligations under this Exhibit.

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

8.1.4 Ownership. All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding their attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph 8.1.4.



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

8.1.5 Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above. The cost of such support service shall be included in the Monthly Services Fees.

8.1.6 Return Of Equipment. Upon termination of the Contract or the applicable Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, Kronos shall invoice Customer for the then list price of the Equipment. Return Of Equipment. Upon termination of the Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer's expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, Kronos shall invoice Customer for the then list price of the Equipment.

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

8.2.1 Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon delivery to the carrier (FOB – Shipping Point, Prepay and Add). The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery.

8.2.2 Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section 6 above if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services shall commence upon expiration of the Warranty Period.

9. SERVICE LEVEL AGREEMENT

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

10. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

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

10.2 Kronos' obligation and Customer's remedy for any breach of the above warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct deficiencies in the Services, after using its commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining term of the Order Form for cause in accordance with Section 1 above as Customer's remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce and/or verify the same.

10.3 Kronos warrants that all equipment shall be free from defects in materials and workmanship during the warranty period as described in Section 8 above. In the event of a breach of this warranty, customer's exclusive remedy shall be Kronos' repair or replacement of the deficient equipment, at Kronos' option, provided that customer's use, installation and maintenance thereof have conformed to the published specifications for such equipment. This warranty is extended to customer only and shall not apply to any equipment (or parts thereof) in the event of:

10.3.1 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;

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

10.3.3 malfunctions resulting from the use of badges or supplies not approved by Kronos.

10.4 EXCEPT AS WARRANTED IN THIS SECTION 10, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, 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 CONTRACT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM. KRONOS PROVIDES NO WARRANTY FOR SUPPLIER HARDWARE OR SOFTWARE EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED ON AN ORDER FORM.

11. DATA SECURITY

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



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

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

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

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

12. RESPONSIBILITY OF CUSTOMER

12.1 If notified in writing of any action (and all prior related claims) brought against Customer based on a claim that the Services infringe or misappropriate any United States or Canadian copyright or patent, Kronos will indemnify and hold Customer harmless and defend such action at its sole cost and expense and pay all costs including reasonable attorney fees and damages resulting from such claim. Kronos will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Customer will cooperate fully at Kronos' expense with Kronos in the defense, settlement or compromise of any such action. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of a United States or Canadian copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in the Contract, (b) replace or modify the Services so that they become non-infringing but remains substantively similar to the affected Services, and if neither (a) or (b) is commercially feasible, to (c) terminate the Contract and the rights granted hereunder after provision of a refund to Customer of the set-up fees and Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

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

12.3 Customer shall pay all costs ordered by a Court of competent jurisdiction for damages of Kronos or its Suppliers, if the action is arising from or relating to: (a) employment-related claims arising out of Customer's configuration of the Services; (b) Customer's modification or combination of the Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification and/or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person. Customer will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Kronos will cooperate fully at Customer's expense with Customer in the defense, settlement or compromise of any such action.

13. LIMITATION OF LIABILITY

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

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

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



L. BROOKS PATTERSON-COUNTY EXECUTIVE
OAKLAND COUNTY
PURCHASING DIVISION

FROM OR RELATED TO THE SERVICES OR THIS CONTRACT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT OR OTHERWISE, AND REGARDLESS OF WHETHER KRONOS OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

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



L. BROOKS PATTERSON-COUNTY EXECUTIVE
**OAKLAND COUNTY
PURCHASING DIVISION**

Exhibit V
Sample Contract Amendment Form
AMENDMENT AND CHANGE ORDER
OF PROFESSIONAL SERVICE CONTRACT
NUMBER 00

AMENDMENT #

AMENDMENT DATE:

This Amendment # ___ of Professional Service Contract number # ___ (hereafter "Amendment") is made and entered into by and between the Contractor identified below (hereafter the "Contractor"), and the County of Oakland, whose address is 1200 N. Telegraph, Pontiac MI 48341 (hereafter "County").

CONTRACTOR	ADDRESS
Kronos	Sr. V.P. Sales, 297 Billerica Road
Vendor:	Chelmsford, MA 01824

County and Contractor (the "Parties") agrees that the purpose of this Amendment is to modify as provided herein and otherwise continue the present relationship between the Parties described in the current Contract Number set forth above (the "Contract") Except as defined below all other terms of the Contract remain unchanged by this Amendment. The Parties agree to amend the Contract as follows:

The County wishes to purchase the following additional services _____
at a cost of \$ _____.

The Not to Exceed Amount of the Contract shall be increased by \$ _____ to cover the additional services.

For and in consideration of the mutual assurances, promises, acknowledgments, warrants, representations and agreements set forth in the Contract and this Amendment, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Amendment on behalf of the County and the Contractor and by doing so legally obligate and bind the County and the Contractor to the terms and conditions of the Contract and this Amendment.

EXHIBIT VI**Order Form - Workforce Central SaaS for SMB v3.2.1**

Quote #:

Order Type: Standard US

Expires: 12/19/2014

Date: 8/19/2014

Prepared By: Doug Plachta

Bill To: Attn: Jim Taylor
Oakland County
1200 North Telegraph Rd, Bldg 49 West
Pontiac, MI 48341

Ship To: Attn: Jim Taylor
Oakland County
1200 North Telegraph Rd, Bldg 49 West
Pontiac, MI 48341

Email: exception@kronos.com

Solution ID:

FOB: Shipping Point

Currency: US

Ship Method: FedEx Ground

Customer PO #:

Freight Terms: Prepay & Add

Initial Terms: Month to Month

Notes:

Start Date: Earlier of go-live or 90 days from the date this Order Form is signed by the parties.

SOFTWARE

Item	License/Qty	PEPM	Monthly Price
Workforce Timekeeper v7	100	\$13.75	\$1,375.00
Workforce Employee v7	100	\$0.00	Included
Workforce Manager v7	10	\$0.00	Included
Workforce Integration Manager v7	100	\$0.00	Included
Workforce Mobile Employee v7	100	\$0.00	Included
Workforce Mobile Manager v7	10	\$0.00	Included
Monthly Total:			\$1,375.00

CORE SMB PROFESSIONAL / EDUCATIONAL SERVICES

Item	Duration	Total Price
Implementation WFC SaaS SMB		\$2,000.00
Implementation WFC SaaS SMB A La Carte		\$0.00
KnowledgePass SaaS WFC SMB		Included
Training Points WFC SaaS SMB	17,100	Included
Total Price		\$2,000.00

SUMMARY

Item	Total Price
Monthly Software Fee	\$1,375.00
Monthly Hardware Fee	\$0.00
Monthly Add-On Hosting Fee	\$0.00
Total Monthly Service Fees:	\$1,375.00
Implementation WFC SaaS SMB	\$2,000.00
Implementation WFC SaaS SMB A La Carte	\$0.00
Equipment Purchase/Support and Accessories	\$0.00
Total One Time Fees:	\$2,000.00

Page 1 of 2

Kronos | Time & Attendance - Scheduling - Absence Management - HR & Payroll - Hiring - Labor Analytics



Order Form - Workforce Central SaaS for SMB v3.2.1

Quote #: 12
Expires: 12/19/2014
Prepared By: Doug Plachta

Order Type: Standard US
Date: 5/28/2014

Bill To: Attn: Accounts Payable
Oakland County Facilities Management
One Public Works Drive - 95 West
Waterford, MI 48328

Ship To: Attn: Gina Bohn
Oakland County Facilities Management
One Public Works Drive - 95 West
Waterford, MI 48328

Solution ID:
Currency: US
Customer PO #:

Email: exception@kronos.com
FOB: Shipping Point
Ship Method: FedEx Ground
Freight Terms: Prepay & Add

Initial Terms: Month to Month

Notes:

Start Date: Earlier of go-live or 90 days from the date this Order Form is signed by the parties.

SOFTWARE

Item	License/Qty	PEPM	Monthly Price
Workforce Timekeeper v7	100	\$13.75	\$1,375.00
Workforce Employee v7	100	\$0.00	Included
Workforce Manager v7	10	\$0.00	Included
Workforce Integration Manager v7	100	\$0.00	Included
Workforce Mobile Employee v7	100	\$0.00	Included
Workforce Mobile Manager v7	10	\$0.00	Included
Monthly Total:			\$1,375.00

EQUIPMENT - PURCHASED

Item	Qty	Unit Price	Total Price
Kronos InTouch 9000 H3, Standard, KR B/C	10	\$2,157.00	\$21,570.00
Touch ID Option for H3 InTouch	10	\$720.00	\$7,200.00
Total Price:			\$28,770.00

EQUIPMENT - PURCHASED SUPPORT

Item	Duration	Total Price
DEPOT EXCHANGE SUPPORT SERVICE	1 YR	\$4,050.00
Total Price:		\$4,050.00

ACCESSORIES

Item	Qty	Unit Price	Total Price
NORTH AMERICA POWER KIT FOR EXTERNAL OUTLET	10	\$0.00	Included
BADGE,B/C,EMPLOYEE,ENCODE	100	\$2.20	\$220.00
Total Price:			\$220.00

CORE SMB PROFESSIONAL / EDUCATIONAL SERVICES

Item	Duration	Total Price
Implementation WFC SaaS SMB		\$2,000.00
Implementation WFC SaaS SMB A La Carte		\$0.00
KnowledgePass SaaS WFC SMB		Included
Training Points WFC SaaS SMB	17,100	Included
Total Price:		\$2,000.00

SUMMARY

Item	Total Price
Monthly Software Fee	\$1,375.00
Monthly Hardware Fee	\$0.00
Monthly Add-On Hosting Fee	\$0.00
Total Monthly Service Fees:	\$1,375.00
Implementation WFC SaaS SMB	\$2,000.00
Implementation WFC SaaS SMB A La Carte	\$0.00
Equipment Purchase/Support and Accessories	\$33,040.00
Total One Time Fees:	\$35,040.00

**Exhibit VII
Pricing**

Perpetual/SaaS		Public Sector Pricebook -G2G				
		* Discount is based on quantities purchased at one time, not cumulative		*ee referenced below is an abbreviation for employee (i.e. 1-100ee is 1 to 100 employees)		

Exhibit VIII

PROFESSIONAL SERVICE CONTRACT NUMBER: XXXXXX

Contract Expiration Date:

Contract - NOT TO EXCEED AMOUNT \$ XX,XXX.XX

This "Contract" is made between the _____, hereinafter called "PPB" and the "Contractor" as further described in the following Table. In this Contract, either Contractor or the PPB may also be referred to individually as a "Party" or jointly as the "Parties".

PPB (herein, the "PPB")	KRONOS INCORPORATED Senior Vice President Sales 297 Billerica Road Chelmsford, MA 01824 Vendor I. D. No. xxxx (herein the "Contractor")
--------------------------------	--

This Contract is organized and divided into the following "Section" or "Sections" for the convenience of the Parties.

- SECTION 1. CONTRACT PURPOSE
- SECTION 2. CONTRACT DOCUMENTS AND DEFINITIONS
- SECTION 3. CONTRACT EFFECTIVE DATE AND TERMINATION
- SECTION 4. SCOPE OF CONTRACTOR'S SERVICES
- SECTION 5. PPB PAYMENT OBLIGATION FOR CONTRACTOR'S SERVICES
- SECTION 6. SOFTWARE LICENSE AND SUPPORT
- SECTION 7. CONTRACTOR ASSURANCES AND WARRANTIES
- SECTION 8. DATA SECURITY AND CONFIDENTIAL INFORMATION
- SECTION 9. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION
- SECTION 10. GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

§11. CONTRACT PURPOSE

- 11.1. After a competitive bidding and selection process by Oakland County, Contractor was chosen to provide services and products, described more fully in the Scope of Services Exhibits, to Oakland County. Contractor desires to extend the terms and conditions in this Contract to a PPB, to enable it to make purchases from Contractor according to the terms herein.
- 11.2. Oakland County shall not be a party to a contract between Contractor and a PPB. Oakland County shall not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 11.3. PPB must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries.

§12. CONTRACT DOCUMENTS AND DEFINITIONS

The following words and expressions when printed with the first letter capitalized as shown herein, whether used in the singular or plural, nominative or possessive case, and/or either with or without quotation marks, shall be defined and interpreted as follows:

- 12.1. "Claims" means any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are imposed on, incurred by, or asserted against the PPB from a third party, or for a third party claim against the PPB for which the PPB may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.
- 12.2. "Confidential Information" means public records that are exempt from disclosure under the Freedom of Information/ Public Records Act of the state where the PPB is located.
- 12.3. "Contract Documents" This Contract includes and fully incorporates herein all of the following documents for the selected Scopes of Services:
 - 12.3.1. Exhibit I: Contractor Insurance Requirements
 - 12.3.2. Exhibit II: Selection of Scope of Contractor's Services to be Performed
 - 12.3.3. Exhibit III: Scope of Contractor's Services #1 - Workforce Central Software as a Service Terms
 - 12.3.4. Exhibit IV: Scope of Contractor's Services #2 - Workforce Ready® Software as a Service Terms
 - 12.3.5. Exhibit V: Sample Contract Amendment Form
 - 12.3.6. Exhibit VI: Order Form (s)
- 12.4. "Day" means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.
- 12.5. "G2G MarketPlace Website" means an Internet site used by Oakland County to provide information to PPBs about businesses providing services to County and agreements used by Oakland County and available to Participating Public Bodies to procure services.
- 12.6. "Iran Linked Business" has the same meaning as "Iran Linked Business" defined in MCL 129.312 being Section 2 of 2012 P.A. 517. This applies only the Michigan PPBs.
- 12.7. "Oakland County" means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees.
- 12.8. "PPB" stands for Participating Public Body, which means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access Oakland County's G2G MarketPlace Website.

- 12.9. "PPB Agent" means all elected and appointed officials, directors, board members, council members, commissioners, employees, volunteers, representatives, and/or any such persons' successors (whether such person act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them. "PPB Agent" shall also include any person who was a "PPB Agent" anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and serving as an Agent.
- 12.10. "PPB Data" means any personally identifiable information such as names, e-mail addresses, passwords, phone numbers, home or business addresses, subscription profile and any other information that may identify a person as well as information provided by PPB for the operation of Contractor's services described in the Exhibits. This includes Confidential Information.

§13. CONTRACT EFFECTIVE DATE AND TERMINATION

- 13.1. The expiration date of this Contract shall be as stated on the first page of this Contract, and unless otherwise terminated or canceled as provided below, it shall end at 11:59:59 p.m. on the "Contract Expiration Date" shown on the first page of this Contract, at which time this Contract expires without any further act or notice of either Party being required. The Parties may renew the Contract for two successive one year terms. Notwithstanding the above, under no circumstances shall this Contract be effective and binding and no payments to the Contractor shall be due or owing for any Contractor services until and unless:
- 13.1.1. This Contract is signed by a Contractor Employee, legally authorized to bind the Contractor.
- 13.1.2. Any and all Contractor Certificates of Insurance and any other conditions precedent to the Contract have been submitted and accepted by the PPB.
- 13.1.3. This Contract is signed by an authorized agent of the Oakland PPB Purchasing Division.
- 13.2. Under no circumstances shall the PPB be obligated to pay the Contractor for any Services rendered or Goods delivered which have not been invoiced, as required herein, within sixty (60) days of the date such Goods were actually delivered to the PPB or Services were actually rendered pursuant to this Contract.
- 13.3. The PPB may terminate and/or cancel this Contract (or any part thereof) at any time during the term, any renewal, or any extension of this Contract, upon ninety (90) days written notice to the Contractor, for any reason, including convenience without incurring obligation or penalty of any kind except for the payment of the products and services delivered and performed. The effective date for termination or cancellation shall be clearly stated in the written notice.
- 13.4. The PPB's sole obligation in the event of termination is for payment for actual services rendered by the Contractor and products delivered before the effective date of termination. Under no circumstances shall the PPB be liable for any future loss of income, profits, any consequential damages or any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination and/or cancellation of this Contract. The PPB shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein.
- 13.5. Contractor may terminate and/or cancel this Contract (or any part thereof) at any time with thirty days (30) days written notice to the PPB, if the PPB defaults in any obligation contained herein, and within the thirty (30) notice period the PPB has failed or has not attempted to cure any such default. The effective date of termination and/or cancellation and the specific alleged default shall be clearly stated in the written notice.

§14. SCOPE OF CONTRACTOR'S SERVICES

- 14.1. Contractor shall perform all services and products selected on Exhibit II, Selection of Scope of Contractor's Services to be Performed. An amendment to the Contract is required to add additional Exhibits (and their associated services). A Sample Contract Amendment Form is provided in Exhibit V, which may be used to add additional services after the Contract is executed.

§15. PPB PAYMENT OBLIGATIONS FOR CONTRACTOR'S SERVICES

- 15.1. Except as otherwise expressly provided for in this Contract, the PPB's sole financial obligation to the Contractor for any Contractor services under this Contract shall be:
- 15.1.1. In no event, shall the PPB's amount due and owing the Contractor for any and all services rendered exceed the amount identified as the "NOT TO EXCEED AMOUNT" on the first page of this Contract. In the event the Contractor can reasonably foresee the total billings for its

services will exceed this "NOT TO EXCEED AMOUNT", the Contractor shall provide the PPB with notice of this contingency at least fifteen (15) Days before this event.

- 15.1.2. No more than once a month, the Contractor shall submit an invoice to the PPB which shall itemize all amounts due and/or owing by the PPB under this Contract, as the date of the invoice. The invoices shall be submitted in the form requested by the PPB. The PPB shall have no obligation to make payment until a proper invoice of service is submitted. If PPB chooses to pay on an annual basis, Contractor shall provide one invoice, sixty days prior to the anniversary of the Contract Effective date. PPB shall provide evidence of its status as a tax exempt entity. Upon providing suitable evidence to Contractor, PPB shall not be invoiced for taxes.
- 15.1.3. PPB shall provide Contractor with evidence of its status as a tax exempt entity. Upon presentation of the tax exemption certificate to Kronos, PPB will not be charged taxes for which it is exempt.
- 15.2. Under no circumstances shall the PPB be responsible for any cost, fee, fine, penalty, or direct, indirect, special, incidental or consequential damages incurred or suffered by Contractor in connection with or resulting from the Contractor's providing any services under this Contract.
- 15.3. This Contract does not authorize any in-kind services by either Party, unless expressly provided for herein.

§16. SOFTWARE LICENSE AND SUPPORT

- 16.1. Contractor shall grant PPB a license to the software request by PPB and described in the Exhibit or Exhibits to this Contract. Contractor shall also provide support services as described in the Exhibits selected.
- 16.2. PPB acknowledges that the equipment and software provided by Contractor may be restricted by the United States Government. PPB is a governmental entity and will not export any of the products or serviced provided by Contractor.

§17. CONTRACTOR'S ASSURANCES AND WARRANTIES

- 17.1. Contractor certifies that all statements, assurances, records, and materials submitted to PPB in connection with securing this Contract have been truthful, complete, and accurate in all respects. Contractor agrees and understands that any material false statement, representation, or omission made in connection with its seeking or obtaining this Contract may be grounds for canceling or terminating this Contract and/or debaring the Contractor from future PPB contracts. The PPB's right to cancel this Contract as provided herein shall be in addition to any other rights the PPB has to terminate or cancel this Contract.
- 17.2. Service Warranty. Contractor warrants that all services performed hereunder will be performed in a manner that complies with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 17.3. Business and Professional Licenses. The Contractor will obtain and maintain, at all times during the term of this Contract, all applicable business and professional licenses necessary to provide the contracted services.
- 17.4. Equipment and Supplies. The Contractor is responsible for providing equipment and supplies not expressly required to be provided by the PPB.
- 17.5. Taxes. The Contractor shall pay its own local, state, and federal taxes, including without limitation, social security taxes and unemployment compensation taxes. The PPB shall not be liable to or required to reimburse the Contractor for any federal, state and local taxes, or fees of any kind.
- 17.6. Contractor's Incidental Expenses. Except as otherwise expressly provided in this Contract, the Contractor shall be solely responsible and liable for all costs and expenses incident to the performance of all services for the PPB including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 17.7. Contractor Employees.
 - 17.7.1. Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to provide the services under this Contract. Contractor shall ensure all Contractor Employees have all the necessary knowledge, skill, and qualifications necessary to perform the required services and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.

- 17.7.2. Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employee.
- 17.7.3. All Contractor Employees shall wear and display appropriate PPB provided identification at all times while working on PPB premises. Contractor shall return all PPB provided identification upon completion of the last day of services provided under this Contract.
- 17.7.4. All Contractor Employees assigned to work at the PPB's site under this Contract may, at the PPB's reasonable discretion, be subject to a security check and clearance by the PPB. Contractor confirms that as part of its hiring process, new employees go through a background check.
- 17.7.5. The PPB acknowledges that when a Contractor uses subcontractors for services under this Contract, Contractor shall require its subcontractor to follow these provisions; however, Contractor is responsible for the performance and compliance of its subcontractors.
- 17.8. Contractor Employee-Related Expenses. All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance) and Contractor warrants that all Contractor Employees shall fully comply with and adhere to all of the terms of this Contract. Contractor shall be solely and completely liable for any and all applicable Contractor Employee federal, state, or local payment withholdings or contributions and/or any and all Contractor Employee related pension or welfare benefits plan contributions under federal or state law. Contractor shall indemnify and hold the PPB harmless for all Claims against the PPB by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between the Contractor and any Contractor Employee, including, but not limited to, Worker's Compensation, disability pay or other insurance of any kind.
- 17.9. Full Knowledge of Service Expectations and Attendant Circumstances. The Contractor is responsible for being adequately and properly prepared to execute this Contract. Contractor has satisfied itself in all material respects that it will be able to perform all obligations under the Contract as specified herein.
- 17.10. The Contractor's Relationship To The PPB Is That Of An Independent Contractor. Nothing in this Contract is intended to establish an employer-employee relationship between the PPB and either the Contractor or any Contractor Employee. All Contractor Employees assigned to provide services under this Contract by the Contractor shall, in all cases, be deemed employees of the Contractor and not employees, agents, or sub-contractors of the PPB.

§18. DATA SECURITY AND CONFIDENTIAL INFORMATION

- 18.1. The Contractor and/or Contractor Employees shall not reproduce, provide, sell, disclose, or give access to Confidential Information to any third party, or to any Contractor Employee not having a legitimate need to know such information, and shall not use the Confidential Information for any purpose other than performing its services under this Contract. Notwithstanding the foregoing, Contractor may disclose Confidential Information if required by law, statute or other legal process; provided that Contractor (i) gives PPB prompt written notice of an impending disclosure, (ii) provides reasonable assistance to PPB in opposing or limiting the disclosure, and (iii) makes only such disclosure as is compelled or required. This does not apply to Confidential Information which Contractor can establish was in the possession of Contractor prior to its receipt from PPB, without an obligation to keep the information confidential.
- 18.2. The Security of Data is subject to the applicable terms in Exhibit III or IV.
- 18.3. Contractor shall provide its services to PPB primarily from data centers in the United States and in compliance with the applicable Exhibit. In case of an emergency, Contractor may temporarily provide services to PPB from a data center outside of the United States and shall provide PPB with notice of this temporary move. Contractor shall not allow its Contractor Employees to store PPB Data on portable devices, including personal computers, except for services that are provided and kept only for the sole purpose of this Contract. Contractor shall permit its Contractor Employees to access PPB Data remotely, only as required, to provide technical support.
- 18.4. If PPB receives a Freedom of Information Act request ("FOIA"), Court Order or other legal request to provide PPB Data held by Contractor, Contractor shall provide PPB Data in a useable format, to PPB within the time frame required by law.

- 18.5. Upon expiration or termination of this Contract, Contractor shall implement an orderly return of PPB Data in a mutually agreeable format or to provide for the secure disposal of PPB Data, if directed by PPB. Such return will be in compliance with Exhibit III or IV as the case may be.
- 18.6. Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character. Notwithstanding the foregoing, a Party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Contract or (c) by law (including the applicable public record laws and FOIA), or by a court or governmental agency, or if necessary in any proceeding to establish rights or obligations under the Contract; provided, the receiving Party shall, unless legally prohibited, use best efforts to, provide the disclosing Party with reasonable prior written notice sufficient to permit the disclosing Party an opportunity to contest such disclosure.
- 18.7. This Contract imposes no obligation upon either Party with respect to the other Party's Confidential Information which the receiving Party can establish by legally sufficient evidence: (a) was rightfully possessed by the receiving Party without an obligation to maintain its confidentiality prior to receipt from the disclosing Party, (b) is generally known to the public without violation of this Contract; (c) is obtained by the receiving Party in good faith from a third party having the right to disclose it without an obligation with respect to confidentiality; (d) is independently developed by the receiving Party without use of the disclosing Party's confidential information, which can be shown by tangible evidence.

§19. CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION

19.1. Indemnification.

- 19.1.1. Contractor shall indemnify and hold the PPB harmless from any and all Claims which are incurred by or asserted against the PPB by any person or entity, to the extent alleged to have been caused or found to arise, from the negligent acts, performances, errors, or omissions of Contractor or Contractor's Employees, all Claims relating to injury or death of any person or damage to any property.
- 19.1.2. The indemnification rights contained in this Contract are in excess and over and above any valid and collectible insurance rights/policies.
- 19.1.3. Contractor shall have no rights against the PPB for any indemnification (e.g., contractual, equitable, or by implication), contribution, subrogation, and/or any other right to be reimbursed by the PPB except as expressly provided herein.
- 19.1.4. If Contractor has Contractor Employees working on PPB's premises at any time and to the extent not caused by the PPB or its employees, officials or contractual, Contractor waives and releases all actions, liabilities, loss and damage including any subrogated rights it may have against the PPB based upon any Claim brought against the PPB suffered by a Contractor Employee.

19.2. Contractor Provided Insurance.

- 19.2.1. At all times during this Contract, Contractor shall obtain and maintain insurance according to the specifications in Exhibit I.

§20. GENERAL TERMS AND CONDITIONS

- 20.1. Access To PPB Facilities. While the Contractor retains the right to perform services at any time, the Contractor must obtain prior permission by the PPB for access to PPB facilities after the PPB's regular business hours.
- 20.2. Cumulative Remedies. A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 20.3. Survival of Terms and Conditions. The following terms and conditions shall survive and continue in full force beyond the termination and/or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their very nature:
"DATA SECURITY AND CONFIDENTIAL INFORMATION "
"CONTRACTOR'S ASSURANCES AND WARRANTIES";

"CONTRACTOR PROVIDED INSURANCE AND INDEMNIFICATION";

"Damage Clean Up To PPB Property and/or Premises";

"Audit";

"Severability";

"Governing Law/Consent To Jurisdiction And Venue"; and

"Survival of Terms And Conditions".

- 20.4. PPB Right to Suspend Services. Upon written notice, the PPB may suspend performance of this Contract if Contractor has failed to comply with Federal, State, or Local laws, or any requirements contained in this Contract. The right to suspend services is in addition to the PPB's right to terminate and/or cancel this Contract. The PPB shall incur no penalty, expense, or liability to Contractor if the PPB suspends services under this Section.
- 20.5. No Third Party Beneficiaries. Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' rights in this Contract, and/or any other right, in favor of any other person or entity.
- 20.6. Compliance with Laws. Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.
- 20.7. Permits and Licenses. Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, and governmental authorizations necessary to perform all of its obligations under this Contract and to conduct business under this Contract. Upon request by the PPB, Contractor shall furnish copies of any permit, license, certificate or governmental authorizations necessary to provide services under this Contract.
- 20.8. Discrimination. Contractor shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, or handicap in violation of State and Federal law.
- 20.8.1. Contractor shall promptly notify the PPB of any complaint or charge filed and/or determination by any Court or administrative agency of illegal discrimination by Contractor.
- 20.8.2. The PPB, in its discretion, may consider any illegal discrimination described above as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 20.9. Reservation of Rights. This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the PPB.
- 20.10. Force Majeure. Notwithstanding any other term or provision of this Contract, neither Party shall be liable to the other for any failure of performance hereunder if such failure is due to any cause beyond the reasonable control of that Party and that Party cannot reasonably accommodate or mitigate the effects of any such cause. Such cause shall include, without limitation, acts of God, fire, explosion, vandalism, any law, order, regulation, direction, action, or request of the United States government or of any other government, national emergencies, insurrections, riots, wars, strikes, lockouts, work stoppages, or other labor difficulties. Reasonable notice shall be given to the affected Party of any such event.
- 20.11. Conflict of Interest. Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.321, et seq.), no contracts shall be entered into between the PPB, including all agencies and departments thereof, and any PPB Agent. To avoid any real or perceived conflict of interest, Contractor shall identify, to the best of its knowledge, any Contractor Employee or relative of Contractor's Employees who are presently employed by the PPB. Contractor shall give the PPB notice if there are any PPB Agents or relatives of PPB Agents who are presently employed by Contractor.
- 20.12. Iran Linked Business. Contractor certifies that it is not an Iran Linked Business. Contractor further certifies that it was not an Iran Linked Business at the time that it submitted its bid on a request for proposal for this Contract. This requirement applies only to Michigan PPBs.
- 20.12.1. Contractor must promptly notify the PPB if Contractor becomes an Iran Linked Business at any time during the term of this Contract including renewals or extensions.

- 20.12.2. The PPB may consider any change in Contractor's status to an Iran Linked Business as a breach of this Contract and may terminate or cancel this Contract immediately with notice.
- 20.13. Damage Clean-up to PPB Property and/or Premises. If Contractor has Contractor Employees on PPB's premises, Contractor shall be responsible for any unexpected and/or unnecessary damage to any PPB tangible property, its premises, or a PPB Agent that is caused by Contractor or Contractor's Employees while performing services. If damage occurs, Contractor shall make necessary repairs and/or replacements to the damaged property to the satisfaction of the PPB. If the clean-up cannot be completed to the PPB's satisfaction, Contractor shall reimburse the PPB the actual cost for repairing or replacing the damaged property. The Contractor shall be responsible for assuring that all PPB and municipal sites are restored to their original condition in relation with such damages to the County's tangible property.
- 20.14. Contractor Use of PPB Licensed Software. In order for the Contractor to perform its services under this Contract, the PPB may permit Contractor or Contractor Employees to access certain Software licensed to the PPB. Contractor or Contractor Employees shall not: transfer, remove, use, copy, or otherwise provide or make available any such copyrighted Software or Documentation to any other person or entity, for any purpose, without the prior written consent of the PPB and/or the licensor. Furthermore, neither the Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any Software. Neither the Contractor nor Contractor Employee shall use any software contrary to the provisions of any applicable Software license agreement or state or federal law.
- 20.15. Grant Compliance. If any part of this Contract is supported or paid for with any state or federal funds granted to the PPB, the Contractor shall comply with all applicable grant requirements. PPB shall provide Contractor with a copy of the grant agreement in advance with the applicable additional terms applicable to this Contract and also acknowledge its acceptance of such terms in writing. If the Parties agree to the additional terms, this Contract will be amended with both Parties consent.
- 20.16. Project Managers. Unless otherwise agreed to by the Parties, each Party shall designate an employee or agent to act as a Project Manager. The Project Managers shall serve as a contact point for all matters related to the services to be performed under this Contract. The Contractor's Project Manager shall coordinate with the PPB's Project Manager; the Contractor shall provide the name and qualifications of its Project Manager and an alternate.
- 20.17. Contract Administrator. Each Party may designate an employee or agent to act as Contract Administrator. The PPB's Contract Administrator shall be responsible for such activities as monitoring deliverables and addressing the quality of services provided by the Contractor, reviewing invoices, and submitting requests to the PPB's procurement authority for any contract modification in accordance with Section 10.28 of this Contract.
- 20.18. Dispute Resolution. All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Managers and Contract Administrators for possible resolution. The Project Managers and Contract Administrators may promptly meet and confer in an effort to resolve such dispute. If the Project Managers cannot resolve the dispute in five (5) business days, the dispute may be submitted to the signatories of this Contract or their successors in office. The signatories of this Contract may meet promptly and confer in an effort to resolve such dispute.
- 20.19. Evaluation. Contractor agrees to the following for the WorkForce Ready and WorkForce Central in the Contractor Private Cloud environments only: Contractor maintains hosting environments that undergo examinations from independent auditors in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e., SOC 1) and the AICPA Trust Services principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e., SOC 2). The Contractor cloud environments are evaluated for the principles of Security, availability and confidentiality by the independent auditor. The Contractor cloud infrastructure reside in a data centers that undergo SSAE 16 examinations. Management access to Contractor cloud environments is limited to authorized Contractor support staff and customer authorized integrations. The security architecture has been designated to control appropriate logical access to the infrastructures to meet the Trust Services Principles of Security, Availability and Confidentiality. The Applications provide the PPB with the ability to configure applications security and logical access per the PPB's business processes.
- 20.20. Access and Records. Contractor will maintain accurate books and records in connection with the services provided under this Contract for thirty-six (36) months after the end of this Contract, and

provide the PPB with reasonable access to such book and records during Contractor's regular business hours and after Contractor has received reasonable advanced notice from PPB.

- 20.21. Audit.** Contractor shall allow the PPB's Auditing Division, or an independent auditor hired by the PPB, to perform contract compliance audits with the authority to access all pertinent records and interview any Contractor Employee throughout the term of this Contract, and for a period of three years after final payment. PPB shall provide thirty (30) days advance written notice of its intent to audit and may not conduct an audit more than once a year. The access is solely limited in relation with verification of the invoices sent in accordance with the Contract. In no event shall the right of Access and Records stated above or right of Audit extend to any Contractor Employee or premises in relation with Cloud facilities, engineering of the products, development of products or services or other customer's information. Contractor shall explain any audit finding, questionable costs, or other Contract compliance deficiencies to the PPB within thirty (30) business days of receiving the draft audit report or such longer period agreed to by the Parties. Contractor's written response shall include all necessary documents and information that refute the draft audit report, and an action plan to resolve the audit findings. A copy of the Contractor's response will be included in the final report.
- 20.22. Delegation /Subcontract/Assignment.** Contractor shall not delegate, assign, or subcontract any obligations or rights under this Contract without the prior written consent of the PPB.
- 20.22.1.** The rights and obligations under this Contract shall not be diminished in any manner by assignment, delegation, or subcontract.
- 20.22.2.** Any assignment, delegation, or subcontract by Contractor and approved by the PPB, must include a requirement that the assignee, delegee, or subcontractor will comply with the rights and obligations contained in this Contract.
- 20.22.3.** The Contractor shall remain primarily liable for all work performed by any subcontractors. The Contractor shall remain liable to the PPB for any obligations under the Contract not completely performed by any Contractor delegee or subcontractor.
- 20.22.4.** Should a Subcontractor fail to provide the established level of service and response, the Contractor shall contract with another agency for these services in a timely manner. Any additional costs associated with securing a competent subcontractor shall be the sole responsibility of the Contractor.
- 20.22.5.** This Contract cannot be sold.
- 20.23. Non Exclusive Contract.** No provision in this Contract limits or is intended to limit, in any way, the Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, this Contract is a non-exclusive agreement and the PPB may freely engage other persons to perform the same work that the Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee the Contractor or any Contractor Employee any number of fixed or certain number or quantity of hours or services to be rendered to the PPB.
- 20.24. No Implied Waiver.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any right or remedy under this Contract shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Contract. No waiver of any term, condition, or provision of this Contract, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.
- 20.25. Severability.** If a court of competent jurisdiction finds a term, condition, or provision of this Contract to be illegal or invalid, then the term, condition, or provision shall be deemed severed from this Contract. All other terms, conditions, and provisions of this Contract shall remain in full force and effect.
- 20.26. Captions.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. Any use of the singular or plural number, any reference to gender, and any use of the nominative or possessive case in this Contract shall be deemed the appropriate plurality, gender, or possession as the context requires.

- 20.27. Notices. Notices given under this Contract shall be in writing and shall either be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and to the person listed below. Notice will be deemed given when one of the following occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.
- 20.27.1. If notice is sent to the Contractor, it shall be addressed to the address stated on the first page of this Contract.
- 20.27.2. If notice is sent to the PPB, it shall be addressed to the Contract Administrator stated on the signature page of this Contract.
- 20.27.3. Either Party may change the address to which notice is sent or identify a different individual to receive notice by informing the other party in writing of the change.
- 20.28. Contract Modifications or Amendments. Any modifications, amendments, rescissions, waivers, or releases to this Contract must be in writing and agreed to by both Parties. Unless otherwise agreed, the modification, amendment, rescission, waiver, or release shall be signed by an expressly authorized Contractor Employee and by the same person who signed the Contract for the PPB or other PPB Agent as authorized by the Oakland PPB Board of Commissioners.
- 20.29. Precedence of Documents. In the event of a conflict between the terms and conditions in any of the documents comprising this Contract, the conflict shall be resolved as follows:
- 20.29.1. The terms and conditions contained in this main Contract document shall prevail and take precedence over any allegedly conflicting provisions in all other Exhibits or documents.
- 20.30. Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the state of the PPB. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the United States Court of the state of the PPB, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.
- 20.31. Entire Contract. This Contract represents the entire Contract and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements or Contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

The undersigned execute this Contract on behalf of Contractor and the PPB, and by doing so legally obligate and bind Contractor and the PPB to the terms and conditions of this Contract.

FOR THE CONTRACTOR:

BY: _____ DATE: _____

_____ appeared in person before me this day and executed this Contract on behalf of Contractor and acknowledged to me under oath that _____ has taken all actions and secured any and all necessary approvals and authorizations and has the requisite authority from Contractor to fully and completely obligate and bind Contractor to the terms and conditions of this Contract and any and all other documents incorporated by reference and also acknowledged to me under oath having been provided with copies and having read and reviewed all Contract documents including all documents incorporated by reference.

Subscribed and sworn to before me on this _____ day of _____, 20__.

Notary Public, State of _____,
_____ County

My Commission Expires: _____
Acting in the County of _____

FOR THE PPB:

BY: _____ DATE: _____

APPROVED AS TO SCOPE OF CONTRACTOR SERVICES:

BY: _____ DATE: _____
Contract Administrator, Department
Street Address
City, State Zip

EXHIBIT I

CONTRACTOR INSURANCE REQUIREMENTS

1. At all times during this Contract, including renewals or extensions, Contractor shall obtain and maintain insurance according to the following specifications:
 - a. Commercial General Liability - with the following as minimum requirements:

\$3,000,000 – Each Occurrence (Total Limit)
Occurrence Form Policy
Broad Form Property Damage
Premises/Operations
Independent Contractors
Products and Completed Operations
(Blanket) Broad Form Contractual
Personal Injury - Delete Contractual Exclusion
Additional Insured: The PPB and PPB Agents (as defined in this Contract);
 - b. Workers' Compensation - as required by law and \$500,000 Employer's Liability;
 - c. Automobile Liability and Property Damage - \$1,000,000 each occurrence, including coverage for all owned, hired and non-owned vehicles including No Fault coverage as required by law;
 - d. Professional Liability/Errors & Omissions Insurance (as applicable) - with minimum limits of \$1,000,000 per claim and \$1,000,000 dollars aggregate.
2. General Certificates of Insurance:
 - a. All Certificates of Insurance shall contain evidence of the following conditions and/or clauses and shall be sent to: The PPB.
 - b. The PPB and PPB Agents (as defined in this Contract) shall be named as "General Liability" Additional Insured with respect to work performed by the Contractor.
 - c. All Certificates are to provide 30 days written notice of material change, cancellation, or non-renewal. Certificates of Insurance or insurance binders must be provided no less than ten (10) working days before commencement of work to the PPB. Insurance carriers are subject to the approval of the PPB.

EXHIBIT II

SELECTION OF SCOPE OF CONTRACTOR'S SERVICES TO BE PERFORMED

Contractor shall perform the following services that are checked in the boxes below:

- ☐ Exhibit III: Scope of Contractor's Services #1- Workforce Central Software as a Service Terms
- ☐ Exhibit IV: Scope of Contractor's Services #2 - Workforce Ready® Software as a Service