KRONOS TERMS

All references to Kronos in these Terms and Conditions should be read as “Vendor (immixTechnology, Inc.), acting by and through its supplier, Kronos.” DIR Contract No. DIR-TSO-4315 and this Kronos Incorporated Terms and conditions will govern this agreement between the Vendor and Customer (“Parties”).

A CUSTOMER, BY SIGNING AN ORDER FORM OR PURCHASE ORDER WHICH REFER TO THESE TERMS AND CONDITIONS WITH KRONOS INCORPORATED, AGREES TO THE APPLICATION OF DIR CONTRACT No. DIR-TSO-4315 and THESE TERMS AND CONDITIONS FOR ALL PRODUCTS, SERVICES AND OFFERINGS SET FORTH ON SUCH ORDER FORM (OR PURCHASE ORDER) WHICH REFERENCES THESE TERMS AND CONDITIONS. SHOULD THERE BE CONFLICT IN TERMS DIR CONTRACT NO. DIR-TSO-4315 SHALL TAKE PRECEDENCE.

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

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

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

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

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

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

SECTION F: WORKFORCE DIMENSIONS™ TERMS AND CONDITIONS
Appendix E
DIR Contract No. DIR-TSO-4315

SECTION A: GENERAL TERMS AND CONDITIONS

1. APPLICATION OF THESE TERMS

DIR Contract No. DIR-TSO-4315 and these terms and conditions apply to each order accepted by Kronos Incorporated ("Kronos") from an eligible Technical and Educational Services, Support and such other Kronos offerings, as specified on an order form (an "Order"). In any event of conflict however, DIR Contract No. DIR-TSO-4315 Will have precedence.

In addition to the terms set forth in this Section A: General Terms and Condition, the following sections apply for the specific offering referenced:
(i) Section B shall apply to the Software licenses and purchased Equipment, support services, and professional and educational services,
(ii) Section C shall apply to the Hosting Services purchased in connection with certain Software licensed under Section B,
(iii) Section D shall apply to the Workforce Central Saas Orders; and
(iv) Section E shall apply to the Workforce Ready Saas Order.

All orders are subject to the approval of Contractor. This Agreement and the Order Form shall supersede the pre-printed terms of any Customer purchase order or other Customer ordering document, and no such Customer pre-printed terms shall apply to the items ordered. Should there be conflict in terms DIR Contract No. DIR-TSO-4315 shall take precedence.

2. APPLICABLE LAWS
Applicable laws shall be in accordance to Appendix A, Section 4F of DIR Contract No, DIR-TSO-4315.

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

4. CONFIDENTIAL INFORMATION
To the extent allowable under the Texas Public Information Act, “Confidential Information” is defined as information that is: i) disclosed between the parties after the date of this Agreement that is considered confidential or proprietary to the disclosing party; and ii) identified as “confidential” at the time of disclosure, or would be reasonably obvious to the receiving party to constitute confidential information because of legends or other markings, by the circumstances of disclosure or the nature of the information itself. Additionally, Customer acknowledges and agree that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos' Confidential Information and trade secret. Each party shall protect the Confidential Information of the other party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such party utilizes for its own information of similar character that it does not wish disclosed to the public. Neither party shall disclose to third parties (except the parent company or the wholly owned subsidiaries of the receiving party who have a need to know) the other party’s Confidential Information or use it for any purpose not explicitly set forth herein, without the prior written consent of the other party. Notwithstanding the foregoing, a party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Agreement and who are under obligations of non-disclosure agreement at least as stringent as this section 4, or (c) by law (including the applicable public record laws), or by a court or governmental agency, or if necessary any proceeding to establish rights or obligations under the Agreement; provided, the receiving party shall, unless legally prohibited, provide the disclosing party with reasonable prior written notice sufficient to permit the disclosing party an opportunity to contest such disclosure. If a party commits, or threatens to commit, a breach of this Section 4, the other party shall have the right to seek injunctive relief from a court of competent jurisdiction. The obligation of confidentiality shall survive for three (3) years after the disclosure of such Confidential Information.
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This Agreement imposes no obligation upon either party with respect to the other party’s Confidential Information which the receiving party can establish by legally sufficient evidence: (a) was rightfully possessed by the receiving party without an obligation to maintain its confidentiality prior to receipt from the disclosing party, (b) is generally known to the public without violation of this Agreement; (c) is obtained by the receiving party in good faith from a third party having the right to disclose it without an obligation with respect to confidentiality; (d) is independently developed by the receiving party without use of the disclosing party’s confidential information, which can be shown by tangible evidence.

5. TAXES
Taxes will be handled in accordance to Appendix A, Section 8E of DIR Contract No. DIR-TSO-4315.

6. TRAVEL EXPENSES
Customer agrees to reimburse Contractor for all pre-approved, reasonable and necessary travel incurred by Contractor in the performance of its obligations under this Agreement, provided that such travel complies with the then Texas Travel Management Program and current Kronos Travel and Expense Policies (such policies are available upon request) or such other policies mutually agreed between the parties in the statement of work. Customer further agrees to pay any travel expenses such as airfare, lodging, meals and local transportation, incurred by Contractor in the performance of its obligations under this Agreement provided such expenses comply with the applicable policies. Customer will be billed by Contractor for such travel expenses and payment thereof shall be made in accordance with Appendix A, Section 8F of DIR Contract No. DIR-TSO-4315.

7. GENERAL
(a) The invalidity or illegality of any provision of this Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.
(b) Customer shall not assign the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void. Assignment of Contract will be handled in accordance to Appendix A, Section 4D of DIR Contract No. DIR-TSO-4315.
(c) Force Majeure will be handled in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-4315.
(d) All notices will be handled in accordance to Appendix A, Section 12 of DIR Contract No. DIR-TSO-4315.
(e) The section headings herein are provided for convenience only and have no substantive effect on the construction of this Agreement.
(f) The parties agree that the Order signed by both parties and expressly references DIR Contract No. DIR-TSO-4315 and this Agreement, and any associated SOW which is delivered via fax or electronically delivered via email it shall constitute a valid and enforceable agreement.
(g) DIR Contract No. DIR-TSO-4315 and this Agreement and any information expressly incorporated herein (including information contained in any referenced URL), together with the applicable Order Form, constitute the entire agreement between the parties for the products and services described herein and supersede all prior or contemporaneous representations, negotiations, or other communications between the parties relating to the subject matter of this Agreement. This Agreement may be amended only in writing signed by authorized representatives of both parties. Customer understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Customer is not entitled to any products or product enhancements other than those contained on the Order Form. Customer has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Agreement.
(h) Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraph (c)(1)(2) of the Commercial Computer Software Restricted Rights clause at FAR 52.227-19, as applicable. Manufacturer is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA.
(i) The JBoss® Enterprise Middleware components embedded in the Software are subject to the End User License Agreement found at http://www.redhat.com/licenses/jboss_eula.html.
(j) Contractor agrees to comply with any applicable federal, state and local laws and regulations.
(k) Additionally, Contractor agrees to be liable for damages in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.
SECTION B
TERMS AND CONDITIONS FOR SOFTWARE LICENSES, SOFTWARE AND EQUIPMENT SUPPORT SERVICES, AND EDUCATIONAL AND TECHNICAL SERVICES

This Section B applies to Software licensed, Equipment purchased, support services for Software and Equipment, and educational and technical services, when such items are identified on the Order which expressly references DIR Contract No. DIR-TSO-4315 and this Agreement.

1. PAYMENT AND DELIVERY
Payments will be made in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315. Delivery terms are as stated in Appendix A, Section 8D of DIR Contract No. DIR-TSO-4315. Contractor will invoice Customer for products upon Acceptance. Unless otherwise set forth on the Order Form, Technical and Educational Services are provided on a time and materials basis, invoiced monthly as rendered.

2. GENERAL LICENSE TERMS
Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos’ written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Customer pays for a copy of the Software constitutes a license fee that entitles Customer to use the Software as set forth below. Kronos grants to Customer a non-exclusive, nontransferable, perpetual (except as provided herein) license to use the Software. This license may be terminated in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315. Upon such termination of this license, Customer will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Customer’s possession or control as allowable by record retention policies and law. This license is subject to all of the terms DIR Contract No. DIR-TSO-4315 and of this Section B.

3. FEE BASED LIMITATIONS
Customer recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Customer. Limitations, which are set forth on the Order Form and in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-TSO-4315, and may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Customer agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Customer’s own business. Customer agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Customer pays the applicable fee for such increase/upgrade. Customer may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos.

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

5. PERMITTED COPIES
Customer may copy the Programs as reasonably necessary to load and execute the Programs and for backup and disaster recovery and testing purposes only, except for additional copies of the Teletimer Software and the Kronos iSeries (which must be licensed separately). All copies of the Programs or any part thereof, whether in printed or machine-readable form and whether on storage media or otherwise, are subject to all the terms DIR Contract No. DIR-TSO-4315 and of this license, and all copies of the Programs or any part of the Programs shall include the copyright and proprietary rights notices contained in the Programs as delivered to the Customer.
6. UPDATES
In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as “Updates”), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.

7. ACCEPTANCE
For Customer’s initial purchase of each Equipment and Software product Kronos shall provide an acceptance test period (the “Test Period”) that commences upon Installation. Installation shall be defined as: a.) the Equipment, if any, is mounted; b.) the Software is installed on Customer's server(s); and c.) implementation team training, if any, is complete. During the Test Period, Customer shall determine whether the Equipment and Software meet the Kronos published electronic documentation, (“Specifications”). The Test Period shall be for 30 days. If Customer has not given Kronos a written deficiency statement specifying how the Equipment or Software fails to meet the Specifications (“Deficiency Statement”) within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Kronos shall have 30 days to correct the deficiency, and Customer shall have an additional 30 days to evaluate the Equipment and Software. If the Agreement is terminated Customer shall return all Equipment and Software (and related documentation) to Kronos, and Kronos shall refund any monies paid by Customer to Kronos for the returned Equipment and Software. Neither party shall then have any further liability to the other for the products that were the subject of the Acceptance Test.

8. LIMITED WARRANTY
Kronos warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Customer’s remedy shall be Kronos’ repair or replacement of the deficient Equipment and/or Software media, at Kronos’ option, provided that Customer’s use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:
(a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
(b) failure of Customer to provide and maintain a suitable installation environment, as specified in the Specifications; or
(c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

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

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

(b) WARRANTY
Kronos warrants that all technical and educational services performed under this Agreement shall be performed in a professional and competent manner. In the event that Kronos breaches this warranty, and Customer so notifies Kronos within 30 days of receipt of invoice for the applicable services, the Customer's remedy and Kronos' liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Customer.
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(c) KRONOS TECHNICAL/EDUCATIONAL SERVICES POLICIES
Kronos’ then-current Technical/Educational Services Policies shall apply to all Technical and/or Educational Services purchased under the applicable SOW and may be accessed at: http://www.kronos.com/Support/ProfessionalServicesEngagementPolicies.htm (“Technical Services Policies”). In the event of a conflict between the Technical Services Policies, DIR Contract No. DIR-TSO-4315 and this Agreement, the DIR Contract No. DIR-TSO-4315 will have precedence.

10. SOFTWARE SUPPORT SERVICES
DIR Contract No. DIR-TSO-4315 and the following terms and conditions shall govern the Software support services provided by Kronos to Customer.

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

10.2 TERM OF SOFTWARE SUPPORT
Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Support service may be renewed for additional one (1) year terms prior to the anniversary date of its commencement date by issuance of an Order from the Customer to immixTechnology Inc. After the one-year initial term of this Agreement, the Service Offerings provided, and the Service Coverage period are subject to change by Kronos with DIR approval and sixty (60) days advance written notice to Customer. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year’s annual support fee.

10.3 GOLD SERVICE OFFERINGS
Customer shall be entitled to receive:

(i) Updates for the Software (not including any Software for which Kronos charges a separate license fee), provided that Customer’s operating system and equipment meet minimum system configuration requirements, as reasonably determined by Kronos. If Customer requests Kronos to install such Updates or to provide retraining, Customer agrees to pay Kronos for such installation or retraining at Kronos’ pricing set forth in this Agreement and Appendix C, Pricing Index of DIR Contract No. DIR-TSO-4315.

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

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

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

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

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

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

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

10.5 PAYMENT
Customer shall pay annual support charges for the initial term in accordance with the payment terms of Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315. Customer shall pay additional support charges, if any, and time and material charges upon receipt of invoice.

10.6 ADDITION OF SOFTWARE
Additional Software purchased by Customer as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to the Support Services at the same support option as the then current Software support coverage in place under these terms. Annual support will be co-termed into the Customers current period of performance following the first year of support. Customer agrees to pay the charges for such addition as per Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

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

10.8 DEFAULT
Customer shall have the right to terminate Kronos support services in the event that Kronos is in breach of the support services warranty set forth below and such breach is not cured within fifteen (15) days after written notice specifying the nature of the breach. In the event of such termination, Kronos shall refund to Customer on a pro-rata basis those pre-paid annual support fees associated with the unused portion of the support term. Kronos reserves the right to terminate or suspend support service in the event the Customer is in default under this Agreement with Kronos and such default is not corrected within fifteen (15) days after written notice. In addition, the support services will terminate and all charges due hereunder will become due and payable in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

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

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

11.1 TERM
Equipment Support Services for the Product(s) have a term of one (1) year commencing upon the expiration of the applicable warranty period, as specified in this Section B. Equipment Support Services can be extended for additional one year terms prior to the anniversary of its commencement date ("Renewal Date") by issuance of a Purchase Order from the Customer to Contractor. For the initial two (2) renewal years the annual support fee, for the same products and service type, will not increase by more than 4% over the prior year’s annual support fee to the extent consistent with the pricing set forth under Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315.
11.2 PAYMENT
Customer agrees to pay the Support Charges for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), will be subject to this Agreement. Customer agrees that if Customer purchases, during the term of this Agreement, any Products of the same type as those specified on an Order Form, such additional Products shall be subject to DIR Contract No. DIR-TSO-4315 and this Agreement. Customer agrees to pay a prorated fee for such additional Products and agrees to pay the full annual fee for such additional Products, upon the renewal date. Kronos will invoice Customer for the annual Support Charges each year in advance of the Renewal Date. Customer will pay in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

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

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

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

11.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION
If Customer purchase the Equipment service packs support, Kronos manufactured terminals specified on an Order, Customer shall be entitled to receive:

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

(ii) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment. Service packs for the Equipment are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Customer is maintaining the Equipment under an annual Equipment Support Services plan with Kronos. Kronos warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Customer. In the event of a breach of this warranty, Customer’s exclusive remedy shall be Kronos’ repair or replacement of the
11.5 RESPONSIBILITIES OF CUSTOMER
Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Customer. In addition, Customer agrees to:

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

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

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

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

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

12. KRONOS SUPPORT SERVICE POLICIES
Kronos' then-current Support Services Policies shall apply to all Support Services purchased and may be accessed at: http://www.kronos.com/Support/SupportServicesPolicies.htm (“Support Policies”). In the event of a conflict between the DIR Contract No. DIR-TSO-4315, the Support Policies and this Agreement, the terms of DIR Contract No. DIR-TSO-4315 will have precedence.

13. FIRMWARE
Customer may not download firmware updates for the Kronos Equipment unless Customer is maintaining such Equipment under a support plan with Kronos. If Customer is not maintaining the Equipment under a support plan with Kronos, Kronos shall have the right to verify Customer's Kronos Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled.
Appendix E
DIR Contract No. DIR-TSO-4315

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

15. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:
The parties hereby agree that the following terms shall apply to Customer’s purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

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

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

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

Payment: Customer shall pay the annual subscription charge for the initial term of the KnowledgePass Education Subscription in accordance with the payment terms of Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315. Contractor will send Customer a quote for renewal of the KnowledgePass Education Subscription at least forty-five (45) days prior to expiration of the then current term. KnowledgePass Education Subscription shall renew for an additional one (1) year term if an Order from the Customer to Contractor is received prior to the end of the initial term or any renewal term.

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

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

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

16. INDEMNIFICATION
Indemnification will be handled in accordance with Appendix A, Section 10A of DIR Contract No. DIR-TSO-4315.

17. LIMITATION OF LIABILITY
Limitation of Liability will be handled in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.

18. TERMINATION OF ORDER FORM OR SOW
Terminations will be handled in accordance to Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315.
Terms and conditions apply to the cloud services which are identified in the Pricing as the Cloud 2 in the Pricelist Name and subject to Appendix C of DIR Contract No DIR-TSO-4315. In the event of conflict, the DIR Contract No. DIR-TSO-4315 will have precedence.

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

1. DEFINITIONS

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

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

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

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

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

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

“Monthly Service Fee(s)” means the monthly fees described in the Cloud Hosting SSS and set forth on the applicable Order Form and Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315.

“Quote” means the quote supplied by Contractor that lists the fees for the elements of Customer’s particular Program.

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

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

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

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

“SLA Credit” means the credit calculated in accordance with the SLA and offered by Kronos in the event of outages, interruptions or deficiencies in the delivery of the Program that result in a failure to meet the terms of the applicable SLA.
“Supplier” means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

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

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

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

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

5. CUSTOMER REPRESENTATIONS AND WARRANTIES; CUSTOMER OBLIGATIONS

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

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

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

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

6. CONNECTIVITY AND ACCESS

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

7. FEES AND PAYMENT TERMS

7.1 In consideration of the delivery of the Program, Customer shall pay Kronos the Monthly Services Fee as defined in the applicable Order Form and in accordance to Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Kronos as specified on the invoice. Payment terms shall be in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

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

8. SERVICE LEVEL AGREEMENT

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

9. LIMITATION OF LIABILITY

Limitation of Liability will be handling in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.

10. DATA SECURITY

10.1 As part of the Program, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: http://www.kronos.com/products/smb-solutions/workforce-central-saas/security-description.aspx Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Customer’s overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Agreement.

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

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

11. TERM AND TERMINATION

11.1 At the expiration of the Initial Term, the applicable Program may be renewed for successive one-year periods by Customer providing notice of its intent to renew at least thirty (30) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C if such breach is not cured within ten (10) days of the date of Kronos’ written notice. No Program interruption
shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

11.2 Customer may terminate the Program in accordance to Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315 at any time during the term of the Addendum if Kronos materially breaches any provision of this Addendum, and such default is not cured within thirty (30) days after receipt of written notice from Customer. In the event of such termination by Customer, Customer shall pay Kronos for all fees then due and owing for the Program prior to the date of termination in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

11.3 Customer may terminate the Program for convenience in accordance to Appendix A, Section 11. B3) of DIR Contract No. DIR-TSO-4315 ninety (90) days prior written notice to Kronos.
Appendix E
DIR Contract No. DIR-TSO-4315

Section C - EXHIBIT A
SERVICE LEVEL AGREEMENT (SLA)

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

99.75% Application Availability

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

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

<table>
<thead>
<tr>
<th>Actual Application Availability % (as measured in a calendar month)</th>
<th>Service Credit to be applied to Customer’s monthly invoice for the affected month</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;99.75% to 98.75%</td>
<td>10%</td>
</tr>
<tr>
<td>&lt;98.75% to 98.25%</td>
<td>15%</td>
</tr>
<tr>
<td>&lt;98.25% to 97.75%</td>
<td>25%</td>
</tr>
<tr>
<td>&lt;97.75 to 96.75%</td>
<td>35%</td>
</tr>
<tr>
<td>&lt;96.75</td>
<td>50%</td>
</tr>
</tbody>
</table>

"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 in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-4315; (d) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit A is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.

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

Currently scheduled Maintenance Periods for the Services are:
- Monday through Friday 04:00 am – 06:00 am (U.S. eastern time)
- Saturday and Sunday 12:00 am – 06:00 am (U.S. eastern time)

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

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.
“Total Minutes Not Available (TM)” means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

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

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

Customer acknowledges that Kronos manages its network traffic in part on the basis of Customer’s utilization of the Services and that changes in such utilization may impact Kronos’ ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.
SECTION C.1: APPLICATION HOSTING TERMS AND CONDITIONS

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

APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS

These Application Hosting Supplemental Terms and Conditions are applicable for hosting services ordered by Customer for Kronos Software licensed under Section B of this Agreement using the pricing as established in Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315;

1. DEFINITIONS

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

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

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

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

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

“Monthly Service Fee(s)” means the monthly fees described in the Cloud Services SOW and set forth on the applicable Order Form and in accordance to Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315; which shall include all Hosting Related Services fees.

“Quote” means the quote supplied by Contractor that lists the Startup Fees and Monthly Service Fees for the elements of Customer’s particular Program.

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

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

“Services Commencement Date” shall, except as otherwise provided in writing in a Cloud Services SOW or Order Form signed by the parties, mean the earlier of (a) the date the Software is transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date.
“Service Description” means the detailed service description (including any supplementary service terms) specified in the Cloud Services SOW which sets forth the specific Program to be provided to the Customer.

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

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

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

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

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

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

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

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

5. CUSTOMER REPRESENTATIONS AND WARRANTIES; CUSTOMER OBLIGATIONS
5.1 Customer represents and warrants to Kronos that it has the right to publish and disclose Customer’s Content in the Program.

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

5.3 Customer will, at its own cost and expense, provide all end user equipment, operating systems, and software (including a web browser) not provided by Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Cloud Services SOW. Customer will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Customer accessing the Program, unless such connectivity services are purchased from Kronos as indicated on the Cloud Services SOW and Order Form.
5.4 Customer shall not, and shall not permit any person or entity under Customer’s direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

6. INTERNET ACCESS

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

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

7. FEES AND PAYMENT TERMS

7.1 In consideration of the delivery of the Program, Customer shall pay Contractor the Monthly Services Fee as defined in the applicable Order Form and in accordance to Appendix C, Pricing Index of DIR Contract No. DIR-TSO-4315. The Monthly Services Fee shall begin to accrue on the Services Commencement Date and shall be invoiced monthly in advance. In addition, Customer shall be billed the Startup Fees and any additional Cloud Hosting startup fees set forth in the applicable Order Form. Customer acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.

7.2 All fees payable hereunder shall be paid in United States Dollars and sent to the attention of Contractor as specified on the invoice. Payments will be made in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

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

8. SERVICE LEVEL AGREEMENT

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

9. LIMITATION OF LIABILITY

Limitation of Liability will be handled in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.

10. DATA SECURITY

10.1 As part of the Program, Kronos shall provide those Kronos security-related services described in the Cloud Services SOW. Customer acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular security-related service as just one tool to be used as part of an overall security strategy and not a guarantee of security. Both parties
agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties.

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

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

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

11. TERMINATION

11.1 At the expiration of the Initial Term, the applicable Program may be renewed for successive one year periods by Customer providing notice of its intent to renew at least thirty (30) days prior to the expiration of the then-current term. Kronos may suspend or terminate the Program upon notice in the event of any breach by Customer of this Section C.1. No Program interruption shall be deemed to have occurred during, and no Program credits shall be owed for, any authorized suspension of the Program.

11.2 Customer may terminate the Program in accordance to Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315 at any time during the term of the Addendum if Kronos materially breaches any provision of this Addendum, and such default is not cured within thirty (30) days after receipt of written notice from Customer. In the event of such termination by Customer, Customer shall pay Contractor for all fees then due and owing for the Program prior to the date of termination in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315.

11.3 Customer may terminate the Program for convenience in accordance to Appendix A, Section 11. B3) of DIR Contract No. DIR-TSO-4315 ninety (90) days prior written notice to Kronos.
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EXHIBIT A.1  
TO SECTION C.1  
SERVICE LEVEL AGREEMENT (SLA) 

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

99.50% Application Availability

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

<table>
<thead>
<tr>
<th>Application Availability SLA – Production Environment</th>
<th>Uptime percentage (as measured in a calendar month)</th>
<th>Affected Service Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&lt;99.50% to 98.75%</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>&lt;98.75% to 98.25%</td>
<td>20%</td>
</tr>
<tr>
<td></td>
<td>&lt;98.25% to 97.75%</td>
<td>35%</td>
</tr>
<tr>
<td></td>
<td>&lt;97.75 to 96.75%</td>
<td>50%</td>
</tr>
<tr>
<td></td>
<td>&lt;96.75</td>
<td>75%</td>
</tr>
</tbody>
</table>

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

Definitions

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

“Excluded Event” means any event that adversely impacts the Program that is caused by (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos or Supplier; (c) Force Majeure events in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-4315; (d) scheduled or emergency maintenance, alteration or implementation; (e) any suspension of the Program in accordance with the terms of this Section or License Agreement; (f) the unavailability of required Customer personnel, including as a result of failure to provide Supplier with accurate, current contact information; (g) using the Application in a manner inconsistent with the product documentation; or (h) any other exclusionary circumstance specified in the applicable Cloud Services SOW.

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

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

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

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

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

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

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

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

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

The Service Level Agreements in this Exhibit, and the related credits listed, apply on a per Program basis. For the avoidance of doubt, Outages, delays, failures, etc. in one Program may not be added to Outages, delays, failures, etc. in any other Program for purposes of calculating SLA credits.
Customer and Kronos agree that the terms and conditions set forth in this Section D shall apply to the Kronos supply of the commercially available version of the Workforce Central SaaS Applications and related services and materials (including applicable documentation) and Equipment (if any) specified on an Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the password protected customer area of a Kronos website. In the event of a conflict, however, DIR Contract No. DIR-TSO-4315 will have precedence.

1. DEFINITIONS

“Application(s)” or “SaaS Application(s)” means those Kronos software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Section D. Multitenant Applications shall be subject to the terms and conditions of DIR Contract No. DIR-TSO-4315 and this Agreement and those set forth at: http://www.kronos.com/products/cloud/multi-tenant-description.aspx

With respect to Multitenant Applications, the terms and conditions of DIR Contract No. DIR-TSO-4315 will supersede any conflicting terms.

“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-guidlines.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 technical 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-guidlines.aspx

Implementation Services may be provided as forth in Section B and in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-TSO-4315.

“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 (not applicable for this contract), 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.

“Quote” means a quote provided by Contractor, and mutually agreed upon by Contractor and Customer setting forth the items requested 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 of Customer that is protected against disclosure under applicable law or regulation.

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

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

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

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

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

2. TERM

2.1 The Services shall commence on the Start Date and shall continue for the Initial Term or until terminated in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315. At the expiration of the Initial Term, the Term may be renewed on a month-to-month basis until terminated in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315.

2.2 At any time after the Initial Term: (i) Customer may terminate the Services for convenience in accordance to Appendix A, Section 11. B3) of DIR Contract No. DIR-TSO-4315.

2.3 Either party may suspend or terminate the Services upon a material breach of this Section D by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services immediately upon notice in the event of any Customer breach. Termination shall be handled in accordance to Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315. In the event of conflict, however, the DIR Contract No. DIR-TSO-4315 will have precedence.

2.4 If the Services are terminated for any reason:
(a) Customer shall pay Contractor in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315, all fees accrued for the Services prior to the date of termination, provided that if Customer terminates for material breach of this Section D by Kronos, Contractor shall be responsible to refund to Customer unused pre-paid Implementation Service fees, if any;
(b) Customer’s right to access and use the Services shall be revoked and be of no further force or effect; © 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 in an agreed upon format. After such time period, Kronos shall have no further obligation to store or make available the Customer Content and may delete any or all Customer Content without liability.
(d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer’s expense or, alternatively, destroy such materials and provide Kronos with an officer’s certification of the destruction thereof as allowable under record retention laws and policies; and
(e) all provisions in this Section D, which by their nature are intended to survive termination, shall so survive.

3. FEES AND PAYMENT

3.1 In consideration of the delivery of the Services, Customer shall pay Contractor 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 Contractor have signed a Statement of Work for the Implementation Services, Implementation Services such services will be provided and payable in accordance with Section B. All fees payable for the Services shall be sent to the attention of Kronos as specified on the invoice. Unless otherwise indicated on an Order Form, payment for all items shall be due 30 days following date of invoice. Except as expressly set forth in this Section D, all amounts paid to Kronos are non-refundable. Customer acknowledges that fees may be charged to Customer by
third parties for add-on features or functionality provided by such third parties. Customer may be required to purchase additional Cloud Services to address infrastructure requirements as released by Kronos for a new version of an Application. In the event of conflict, however, the DIR Contract No. DIR-TSO-4315 will have precedence.

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 Deleted intentionally.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Agreement, Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Application(s) and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which are included in the Services, excluding such Third Party software, libraries or other components as are licensed directly from such Third Parties. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the Applications into uncompiled or unassembled code. Customer shall not use any of the third-party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license agreement found at http://www.redhat.com/licenses/jboss_eula.html Customer acknowledges that execution of separate third party agreements may be required in order for Customer to use certain add-on features or functionality, including without limitation tax filing services.

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

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

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

4.5 When using and applying the information generated by the Services, Customer is responsible for ensuring that Customer complies with the applicable requirements of federal and state law. If the Services include the Workforce Payroll Applications or Workforce Absence Management Applications:

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

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

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in the Services. Customer represents and warrants to Kronos that the Customer Content: (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 deems reasonably necessary in order for Kronos to perform its obligations under this Section D. Customer will make all necessary arrangements as may be required to provide access to Customer’s computer and network environment if necessary, for Kronos to perform its obligations under this Section D. Customer agrees that Kronos may audit Customer’s use of the Services.

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

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

7.3 Support. Kronos will provide 24x7 support for the 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 Agreement, the terms of this Addendum, then the Agreement 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):

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

(i) Depot Exchange and Depot Repair: If Customer has selected Depot Exchange or Depot Repair Equipment Support Services, the following provisions shall apply:

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

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

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

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

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

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

(e) 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. Customer may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Customer may download and modify contents of training kits solely for Customer’s internal use.

7.6 Training Points. “Training Points” which are purchased by Customer may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Training Points may be redeemed only during the Term at any time no more than twelve (12) months after the date of the applicable Order Form, after which time such Training Points shall expire and be of no value. Training Points may not be exchanged for other Kronos products or services.

7.7 Training Courses. When Training Points or training sessions are set forth in an SSS, the SSS applies. When Training Points or training sessions are not set forth in an SSS, as part of the Services, for each SaaS application module included in the Services purchased by Customer, Customer’s employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at: www.kronos.com/products/workforce-central-saas/training-guidlines.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 Section D and applicable law.

9. EQUIPMENT
If Customer purchases or rents Equipment from Kronos, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.
9.1 The following terms apply only to Equipment Customer rents from Kronos:
   a) Rental Term and Warranty Period. The term of the Equipment rental and the “Warranty Period” for such
      Equipment shall run coterminously with the Term of the other Services provided under this Section D.
   b) Insurance. Customer shall insure the Equipment for an amount equal to the replacement value of the
      Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage
      after shipment of the Equipment to Customer shall relieve Customer from Customer’s obligations under this Section
      D.
   c) Location/Replacement. Customer shall not make any alterations or remove the Equipment from the place of
      original installation without Kronos’ prior written consent. Kronos shall have the right to enter Customer’s premises to
      inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no
      additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the
      replacement Equipment at least provides the same level of functionality as that being replaced.
   d) Ownership. All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain,
      separate items of personal property, notwithstanding such Equipment’s attachment to other equipment or real property.
      Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or
      otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
   e) Equipment Support. Kronos shall provide to Customer the Equipment support services described in Section
      7.
   f) Return of Equipment. Upon termination of the Services, Customer agrees that Customer shall return the
      Equipment to Kronos within thirty (30) days at Customer’s expense. Equipment will be returned to Kronos in the same
      condition as and when received, reasonable wear and tear accepted. If Customer fails to return Equipment within this
      time period, upon receiving an invoice from Kronos, Customer shall pay Kronos the then list price of the unreturned
      Equipment.

9.2 The following terms apply only to Equipment Customer purchases from Kronos:
   a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon acceptance. The
      “Warranty Period” for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise
      required by law).
   b) Equipment Support. Kronos shall provide to Customer the Equipment support services described herein if
      purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support
      services shall commence upon expiration of the Warranty Period.

10. SERVICE LEVEL AGREEMENT
    Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level
    Agreement attached hereto as Exhibit A and which is hereby incorporated herein by reference. CUSTOMER’S SOLE
    AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE or INTERRUPTION OF the SERVICES OR
    FAILURE BY KRONOS TO MEET THE TERMS OF the APPLICABLE service level agreement, SHALL BE THE
    REMEDIES PROVIDED IN exhibit A.

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

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

11.3 Kronos warrants to Customer that each item of Equipment shall be free from defects in materials and workmanship
    during the Warranty Period. In the event of a breach of this warranty, Customer’s sole and exclusive remedy shall be
    Kronos’ repair or replacement of the deficient Equipment, at Kronos’ option, provided that Customer’s use, installation
    and maintenance thereof have conformed to the documentation for such Equipment. This warranty is extended to
    Customer only and shall not apply to any Equipment (or parts thereof) in the event of:
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a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12.0 DATA SECURITY
12.1 As part of the Services, Kronos shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data as described at: http://www.kronos.com/products/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 Section D.

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

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

13. INDEMNIFICATION
Indemnification will be handled in accordance with Appendix A, Section 10A of DIR Contract No. DIR-TSO-4315.

14. LIMITATION OF LIABILITY
Limitation of Liability will be handled in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.
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SECTION D - EXHIBIT A
SERVICE LEVEL AGREEMENT (SLA)

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

99.75% Application Availability

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

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

<table>
<thead>
<tr>
<th>Actual Application Availability % (as measured in a calendar month)</th>
<th>Service Credit to be applied to Customer’s monthly invoice for the affected month</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;99.75% to 98.75%</td>
<td>10%</td>
</tr>
<tr>
<td>&lt;98.75% to 98.25%</td>
<td>15%</td>
</tr>
<tr>
<td>&lt;98.25% to 97.75%</td>
<td>25%</td>
</tr>
<tr>
<td>&lt;97.75% to 96.75%</td>
<td>35%</td>
</tr>
<tr>
<td>&lt;96.75</td>
<td>50%</td>
</tr>
</tbody>
</table>

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

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

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

Currently scheduled Maintenance Periods for the Services are:
- Monday through Friday  04:00 am – 06:00 am (U.S. eastern time)
- Saturday and Sunday  12:00 am – 06:00 am (U.S. eastern time)

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

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.
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“Total Minutes Not Available (TM)” means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

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

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

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

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

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

1. TERM

1.1 The Services shall be deemed to start on the earlier of: a) ninety (90) days from Kronos’ receipt of the relevant Order Form; or, b) the date Customer is authorized to “go live” with the Services for production purposes, (the “Start Date”), and shall continue indefinitely on a month-to-month basis until terminated. In accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315. Customer acknowledges that execution of separate third-party agreements may be required in order for Customer to “go live” with certain add-on features or functionality, including tax filing services (“Add-on Features”), as identified by Kronos on the Order Form.

1.2 Customer may terminate the Services or the Agreement for convenience in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315.

1.3 Either party may suspend or terminate the Services or the Agreement upon a material breach of the Agreement by the other party if such breach is not cured within fifteen (15) days after receipt of written notice. Notwithstanding the foregoing, Kronos may suspend or terminate the Services or the Agreement immediately upon notice in the event of any Customer breach. Termination shall be handled in accordance to Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315.

1.4 If the Agreement is terminated for any reason:
(a) Customer shall pay Kronos in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315 all fees accrued for the Services prior to the date of termination, provided that if Customer terminates Kronos for material breach of the Agreement, Kronos shall be responsible to refund to Customer unused pre-paid service fees, if any; (b) Customer’s right to access and use the Services shall be revoked and be of no further force or effect;
(c) Within fifteen (15) days of termination Customer will retrieve Customer’s historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Kronos shall have no further obligation to store and/or make available Customer’s historical data and may delete same. If Customer requires additional data conversion services from Kronos, these services may be contracted from Kronos at Kronos’ then published rates.
(d) As allowable under record retention laws and policies, Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer’s expense or, alternatively, upon prior written approval of Kronos, provide Kronos with an officer’s certification of the destruction thereof; and
(e) all provisions in the Agreement, which by their nature are intended to survive termination, shall so survive in accordance with Attachment A, Section 4E of DIR-TSO-4315.

2. FEES AND PAYMENT

2.1 In consideration of the delivery of the Services, Customer shall pay Contractor 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. Payments will be made in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315. Except as expressly set forth in this Section E, all amounts paid to Contractor are non-refundable.

2.2 The Setup Fees shall be invoiced upon execution of the Order and will be paid in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-4315 and Appendix C, Pricing Index. 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 and in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315 either on a: (a) per month basis; (b) per active employee (herein “Active Employee”) per month usage basis; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an “Active” status during the period.

2.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees (“Minimum Monthly Fees”) as identified on the Order Form. The Minimum Monthly Fees shall be calculated by Kronos based on Customer’s anticipated monthly Usage of the Services plus Equipment rental fees, if any. In the event that Customer does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees up to and including the last day of the month in which the effective date of termination occurs. In the event of conflict, however, the DIR Contract No. DIR-TSO-4315 will have precedence.

2.4 Deleted intentionally.

2.5 Deleted Intentionally.

3. LICENSE TO USE

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

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

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

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

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

4. ACCEPTABLE USE

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

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

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

5. CONNECTIVITY AND ACCESS

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

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

6. SUPPORT

a) Implementation. Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Kronos and Customer’s implementation responsibilities are described more specifically in the Services Implementation Guideline set forth at: http://www.kronos.com/products/workforce-ready/implementation-guidlines.aspx In the event of inconsistencies between the Services Implementation Guideline and this Agreement, the Agreement shall prevail.
b) Depot Exchange Services for Equipment. As needed, Kronos will send a replacement for Equipment rented (in accordance with Section 8 below) on an advance exchange basis by next-business-day delivery, when available. When Customer receives replacement Equipment, Customer shall return the defective unit to Kronos for repair. Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.

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

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

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

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

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

a) Rental Term and Warranty Period. The term of the Equipment rental and the “Warranty Period” for such Equipment shall run cotermi nously with the Term of the other Services.

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

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

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

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

Return Of Equipment. Upon termination of the Agreement or the applicable Order Form, Customer agrees that Customer shall disconnect, crate and return the Equipment to Kronos within thirty (30) days at Customer’s expense. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear accepted. If Customer fails to return Equipment within this time period, Contractor shall invoice Customer for the then list price of the Equipment. Return Of Equipment.
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8.2 The following additional terms apply only if Customer purchases Kronos Equipment from immixTechnology Inc:

a) Ownership and Warranty Period. Title to the Equipment shall pass to Customer upon acceptance. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery.

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

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

10. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

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

10.2 Kronos' obligation and Customer's remedy for any breach of the above warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct deficiencies in the Services, after using its commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining term of the Order Form for cause in accordance with Appendix A, Section 11 of DIR Contract No. DIR-TSO-4315. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce and/or verify the same.

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

a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

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

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

EXCEPT AS WARRANTED IN THIS SECTION 10, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM. KRONOS PROVIDES NO WARRANTY FOR SUPPLIER HARDWARE OR SOFTWARE EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED ON AN ORDER FORM.

11.0 DATA SECURITY

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

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

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

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

12. RESPONSIBILITY OF CUSTOMER

Indemnification will be handled in accordance with Appendix A, Section 10A of DIR Contract No. DIR-TSO-4315.

13. LIMITATION OF LIABILITY

Limitation of Liability will be handled in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-4315.
SECTION F

(KNOS GENERAL TERMS’ SALES SOFTWARE, SOFTWARE, PROFESSIONAL SERVICES AND
SOFTWARE AND EQUIPMENT SUPPORT SERVICES

1. GENERAL LICENSE TERMS
Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos’ written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Ordering Activity pays for a copy of the Software constitutes a license fee that entitles Ordering Activity to use the Software as set forth below. Contractor grants to Ordering Activity a non-exclusive, nontransferable, perpetual (except as provided herein) license to use the Software. Ordering Activity shall not use the Software if it is in breach of the terms of this Section A. Upon termination of this license Ordering Activity will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Ordering Activity’s possession or control. This license is subject to all terms of this Section F and DIR Contract No. DIR-TSO-4315, Appendix E.

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

3. OBJECT CODE ONLY
Ordering activity may use the computer programs included in the software (the “programs”) in object code form only, and shall not reverse compile, disassemble or otherwise convert the programs into compiled or unassembled code. The programs include components owned by third parties. Such third party components are deemed to be software subject to this section a of this Section F-1. Ordering activity shall not use any of the programs (or the data models therein) except solely as part of and in connection with the software and as described in the published documentation for such software.

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

5. UPDATES
In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as “Updates”), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.
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6. LIMITED WARRANTY
Contractor warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment and/or Software media, at Kronos’ option, provided that Ordering Activity’s use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:
(a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
(b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the Specifications; or
(c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

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

7. PROFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS
Unless otherwise indicated on the Order, Professional and Educational Services ("Professional Services") shall be provided on a time and material basis at established fixed hourly prices labor rates and described in a statement of work.

(b) WARRANTY
Contractor warrants that all professional and educational services performed under this Section A of this Section F-1 shall be performed in a professional and competent manner. In the event that Contractor breaches this warranty, and Ordering Activity so notifies Kronos through Contractor within 30 days of receipt of invoice for the applicable services, the Ordering Activity’s remedy and Contractor’s liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Ordering Activity.

c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES
Kronos’ Professional/Educational Services Policies shall apply to all Professional and/or Educational Services purchased under the applicable SOW and are in Section F of this Section F-1. In the event of a conflict between the Professional Services Policies and this Section A of this Section F-1, the terms of this Section A of this Section shall prevail.

8. SOFTWARE SUPPORT SERVICES

(a) SUPPORT OPTIONS
Ordering Activity may select from the following Software support purchase options: Gold (or Gold Plus) and Platinum (or Platinum Plus) support ("Service Type"), each providing different service coverage periods and/or service offerings, as specified herein ("Service Offerings") and in the Kronos Support Service Policies (defined below). Ordering Activity must purchase the same Service Type for all of the Software specified on the Order Form, (however, if Ordering Activity is purchasing support services for Visionware Software, Ordering Activity may only purchase Gold Service Type for the Visionware Software). All Updates shall be provided via remote access.
(b) TERM OF SOFTWARE SUPPORT
Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Renewal of support will be agreed by the issuance of a new order and Contractor accepting such order.

(c) GOLD SERVICE OFFERINGS
Ordering Activity shall be entitled to receive:

(i) Updates for the Software (not including any Software for which Contractor charges a separate license fee), provided that Ordering Activity’s operating system and equipment meet minimum system configuration requirements, as reasonably determined by Contractor through Kronos. If Ordering Activity Requests Contractor through Kronos to install such Updates or to provide retraining, Ordering Activity shall issue a new purchase order to Contractor for such installation or retraining at Contractor’s current Prices in accordance with Appendix C of DIR Contract No. DIR-TSO-4315.

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

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

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

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

(d) PLATINUM AND PLUS SERVICE OFFERINGS:
Platinum: In addition to the Service Offerings specified for the Gold Service Offering above, the Service Coverage Period for the Platinum Service Offering is 24 hours a day, seven days a week, 365 days a year.

Plus, option: In addition to the Service Offerings specified for the Gold Service Offering above, Ordering Activities purchasing the Plus option shall receive the services of a dedicated, but not exclusive, Kronos Technical Account Manager ("TAM") for one production instance of the Software. Customers purchasing the Gold-Plus option shall designate up to one primary and one secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM, while Ordering Activities purchasing the Platinum-Plus option shall designate up to two primary and three secondary backup Technical Contacts. Upon request, Ordering Activity may designate additional

and/or backup Technical Contacts. Ordering Activity is required to place all primary Technical Contacts through Kronos product training for the Software covered under this Section A of this Section F-1 at Ordering Activity’s expense under a separate order.

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

(e) ADDITION OF SOFTWARE
Additional Software purchased by Ordering Activity as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to this Section A of this Section F-1 at the same support option as the then current Software support coverage in place under these terms. Ordering Activity agrees to pay the charges for such addition as per the Order.
(f) RESPONSIBILITIES OF ORDERING ACTIVITY

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

(g) WARRANTY

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

9. EQUIPMENT SUPPORT SERVICES

The following terms and conditions shall supplement the terms and conditions of this Section F-1 and shall govern the equipment support services provided by Contractor through Kronos to Ordering Activity. In the event of a conflict of inconsistency between the Section A of this Section F-1 and this Section 9, the Section A of this Section F-1 shall govern.

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

9.1 TERM

Equipment Support Services for the Product(s) have a term of one (1) year commencing upon the expiration of the applicable warranty period, as specified in the Section A of this Section F-1 entered into between Contractor and Ordering Activity. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date (“Renewal Date”) if agreed upon by the issuance of a new order and Contractor accepting such order.

9.2 PAYMENT shall be in accordance with Appendix A, Section 8 of DIR Contract DIR-TSO-4315. Ordering Activity agrees that all Products of the same type that are owned by the Ordering Activity, including without limitation Ordering Activity’s "Spare Products" (as defined below), will be covered by the Depot Support Services or Service Packs. Ordering Activity agrees that if Ordering Activity purchases, during the term of the Depot Support Services, any Products of the same type as those specified on an Order Form, such additional Products shall be covered by the Depot Support Services.

9.3 DEPOT SUPPORT SERVICE DESCRIPTION

Upon the failure of an installed Product, Ordering Activity shall notify Contractor through 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 Product related shall be dispatched to a Kronos Depot Repair Center and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Product if Ordering Activity is to return the failed Product to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed product with the supplied RMA number. Hours of operation, locations and other information related to Kronos’ Depot Repair Centers can be found at http://customer.kronos.com/ContactUs.htm and are subject to change. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos’ then-current Support Services Policies which may be found herein under Section G of DIR-TSO-4315 Appendix E.

(a) Depot Exchange: Contractor through Kronos will provide a replacement for the failed Product at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos’ choice. Replacement Product will be shipped the same day, for next business day delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT PRODUCT(S) shall BE NEW. Ordering Activity shall specify the address to which the Product is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos
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Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Product from Kronos, shall package the defective Product in the materials provided by Kronos, with the RMA supplied and promptly return failed Products directly to Kronos using the carrier specified by Kronos.

(b) Depot Repair: It is Ordering Activity's obligation to purchase and retain, at Ordering Activity's location and at Ordering Activity's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Ordering Activity to replace failed Products at all Ordering Activity locations. Upon failure of an installed Product, Ordering Activity shall install a Spare Product to replace the failed Product. Ordering Activity shall also specify the address to which the repaired Product should be return shipped. Ordering Activity shall then return the failed Product, with the required RMA, to the applicable Kronos Depot Repair Center. Ordering Activity shall make every reasonable effort to return the failed Product using the same packing materials in which the original Product was sent. Upon receipt of the failed Product, Contractor through Kronos shall repair the failed Product and ship it, within ten (10) business days after receipt, to Ordering Activity. Kronos shall ship the repaired Product by regular surface transportation to Ordering Activity.

9.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION
If Ordering Activity purchase the Equipment service packs support, Kronos manufactured terminals specified on an Order, Ordering Activity shall be entitled to receive:

(a) Service packs for the Terminals (which may contain Terminal system software updates, firmware updates, security updates, and Terminal feature enhancements) available for download at Kronos’ customer web site; and

(b) Access to the Kronos Support Services Center for the logging of requests for assistance downloading equipment service packs for the Terminals.

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

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

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

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

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

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

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

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

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

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

(e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or (f) Ordering Activity's repair, attempted repair or modification of the Products.

Professional services provided by Contractor through Kronos in connection with the installation of any Software or firmware upgrades, if available, and if requested by Ordering Activity, are not covered by Depot Support Services. Firmware (including equipment service packs) which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Ordering
Activity is maintaining the Product under an annual Depot Support Services plan with Kronos. All services under this contract will be in accordance with DIR Contract No. DIR-TSO-4315, Appendix C, Pricing Index.

9.7 WARRANTY
(a) Depot Repair and Exchange warranty: Contractor warrants that all repairs performed under the Section F-1 of Appendix D as amendment by Appendix E of DIR Contract No. DIR-TSO-4315 shall be performed in a professional and competent manner.

ALL OTHER WARRANTIES FOR THE DEPOT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.

(b) Services Pack support Warranty: Contractor warrants that all service packs and firmware updates provided under this Section A of this Section F-1 shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Ordering Activity. In the event of a breach of this warranty, Ordering Activity’s remedy shall be Contractor’s repair or replacement of the deficient service pack(s) or firmware update(s), at Contractor’s option, provided that Ordering Activity’s use, installation and maintenance thereof have conformed to the specifications.
9.8 LIMITATION OF REMEDIES
To the extent permitted by law, the remedy of Ordering Activity and liability of Contractor shall be replacement of the repaired Product.

10 KRONOS SUPPORT SERVICE POLICIES
Kronos’ Support Services Policies shall apply to all Support Services purchased and may be accessed in Sections B for the WebTa Software support services and Section G for the other products of this Section F-1. In the event of a conflict between the Support Policies and this Section A of this Section F-1, the terms of this Section A of this Section F-1 shall prevail.

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

12 FIRMWARE
Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity’s Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

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

14 KNOWLEDGEPASS EDUCATION SUBSCRIPTION:
The parties hereby agree that the following terms shall apply to Ordering Activity’s purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

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

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

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

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

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

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

Among other information that may be Confidential Information, the Ordering Activity hereby agree that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos’ Confidential Information and trade secrets. To the extent allowable under the Texas Public Information Act.

9 GENERAL

(a) Ordering Activity shall not assign, transfer or sublicense the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.

(b) Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Ordering Activity is not entitled to any products or product enhancements other than those contained on the Order Form. Ordering Activity 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 Section A of this Attachment. To the extent allowable under the Texas Public Information Act.

(c) Use, duplication, or disclosure by the United States Government is of the Software, Documentation and any other type of technical data provided hereunder are commercial in nature and developed at private expense. The Software is licensed as Commercial Computer Software and 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 the provision of the GSA Schedule contract, as applicable. Manufacturer/distributor is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as “Commercial Computer Software” as defined in DFARS 252.227-7014 (June 1995) or as a “Commercial Item” as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer’s standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable. Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in this Section F-1.

(End of Section F-1)
Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Kronos’ Workforce Dimensions software as a service and other related offering specified on an Order Form signed by Ordering Activity (the “Order Form”).

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section E of the Section F-1 apply for all order forms for the Services. These terms are effective as of the date the Order Form is accepted by the Contractor (“Effective Date”)

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

Exhibit A: Section F-2: Equipment Purchase, Rental, and Support
Attachment A-2: Service Level Agreement
Exhibit B: Workforce Dimensions Cloud Guidelines
Exhibit C: Customer Success
Attachment C-1: Customer Success Plans
Attachment C-2: Customer Success Programs
Attachment C-3: Advisory Support Offerings
Exhibit D: Acceptable Use Policy (AUP):
Exhibit E: AtomSphere Service and Boomi Software

Definitions

“Section I” means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

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

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

“Applicable Law(s)” means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders which govern the Party’s respective business.

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

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

“Boomi AtomSphere Service” means the third-party service for the creation of integrations by Ordering Activity as further described in Exhibit E, which the Ordering Activity and Ordering Activity’s Authorized Users have the right to access through the Service.

“Boomi Software” means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Exhibit E.
“Configuration(s)” means the Ordering Activity specific settings of the parameters within the Applications(s), including pay and work rules, security settings such as log-in credentials, passwords, and private keys used to access the Service.

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

“Customer Data” means all content Ordering Activity, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

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

“Ordering Activity Indemnified Party(ies)” means Ordering Activity and Ordering Activity’s respective directors, officers, and employees.

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

“Documentation” means the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides.

“Educational Services” means (i) KnowledgeMap Learning Portal; (ii) KnowledgeMap Live; and (iii) ala carte educational Technical services.

“Equipment” means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form.

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

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

“Fees” means the charges to be paid by Ordering Activity for a particular item.

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

“KnowledgeMap™ Learning Portal” means the online educational portal providing access to self-paced learning modules.

“KnowledgeMap™ Live” means the subscription service providing instructor led training by user role on a rotating course schedule.

“Order Form” means an order form mutually agreed upon by Contractor and Ordering Activity setting forth, among other things, the items ordered by Ordering Activity and to be provided by Contractor through Kronos and the Fees to be paid by Ordering Activity.

“Party(ies)” means Contractor or Ordering Activity, or both of them, as the context dictates.

“PEPM” means the per employee per month fee for a Ordering Activity’s Authorized Users access to the Service.

“Personally, Identifiable Information” means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under Applicable Data Protection Law.
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“Professional Services” means the professional, educational, technical, or training services provided by Contractor through Kronos pursuant to an Order Form and which are not described in a Statement of Work.

“Seasonal Licenses” are limited use licenses that have the following attributes: (i) valid only for the four (4) consecutive months during the annual period identified on the Order Form; (ii) valid from the first day of the month in which they commence until the end on the last day of the month in which they expire; and (iii) will be effective automatically each year during the Term, subject to termination and non-renewal as provided in the Agreement.

“Service” means the Contractor through Kronos supply of the commercially available version of the Workforce Dimensions SaaS Applications in Kronos’ hosted environment and the services described in the section related thereto.

“Statement of Work” and “SOW” are interchangeable terms referring to a written description of the Implementation Services.

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

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

1. Order Forms
1.1 The following commercial terms may appear on an Order Form:
   a. The Application(s) included in the Service, and the other offerings being ordered by Ordering Activity
   b. Billing Start Date (i.e., the date the billing of the PEPM Fees commences)
   c. Initial Term (i.e., the initial billing term of the Service commencing on the Billing Start Date)
   d. Renewal Term (i.e., the renewal billing term of the Service)
   e. Billing Frequency (i.e., the frequency for the invoicing of the PEPM Fees such as Annual in Advance or Monthly in Arrears)
      i. “Annual in Advance” means payment is due on an annual basis with the invoice being issued upon execution of the Order Form.
      ii. “Monthly in Arrears” means payment is due on a monthly basis with the invoice being issued at the end of the month in which the Service was delivered.
   f. Reserved
   g. Reserved

1.2 The following Fees as set forth on Appendix C of DIR Contract No. DIR-TSO-4315 Pricelist may appear on an Order Form:
   a. PEPM Fees for use of the Service, including PEPM Fees for Seasonal Licenses
   b. Customer Success Fees for Premium and Premium Plus Plans
   c. Implementation Services Fees (The Order Form will note if Implementation Services Fees are included in PEPM Fees.)
   d. Equipment Purchase Fees
   e. Equipment Rental Fees
   f. KnowledgeMap™ Live Fees

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

2. Billing

2.1 Contractor will invoice the Fees on the Billing Frequency indicated on the Order Form in accordance with the Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Ordering Activity will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Ordering Activity will send payment to the attention of Contractor at the address indicated on the applicable invoice unless the Parties have made an alternative payment arrangement (such as credit card, wire transfer, ACH payment or otherwise). Unless expressly provide in this Section I, all amounts paid to Contractor are non-refundable.
2.2 The Services shall commence on the Billing Start Date and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term, as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing a new purchase order.

3. Implementation Services, Professional Services, and Educational Services

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

3.2 While Ordering Activity may configure the Applications itself, as part of the Implementation Services as described in an SOW, Contractor through Kronos may also configure the Applications. Contractor through Kronos will configure the Applications based on Ordering Activity’s instructions and direction. Ordering Activity is solely responsible for ensuring that the Configurations comply with Applicable Law.

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

3.4 The KnowledgeMap™ Learning Portal is included in the PEPM Fees. If included on an Order Form, Contractor through Kronos will also provide a subscription to KnowledgeMap™ Live. The KnowledgeMap Live 1st Year Training will expire one (1) year from purchase. KnowledgeMap Live Subscription and KnowledgeMap Live 5 Pack are coterminous with the Service and will renew with the Service, unless terminated by Ordering Activity upon at least sixty (60) days prior written notice before the start of a Renewal Term. Ordering Activity is permitted to assign one (1) employee to each user account (or seat) included in Ordering Activity’s KnowledgeMap Live subscription. The number of permitted seats will appear on the Order Form. Passwords and accounts cannot be shared by multiple users. Ordering Activity will designate one (1) named user account to act as a training administrator. The KnowledgeMap Live 5 Pack entitles Customer to add up to five (5) additional named users.

3.5 Contractor through Kronos may also provide ala carte educational and Technical services as Implementation Services or Professional Services as described in a SOW or Order Form.

3.6 The Professional Service policies set forth in Section F of this Section F-1 (Professional/Educational Services Policies) shall apply to all Implementation Services and Professional Services provided by Contractor through Kronos. In the event of a conflict between the Professional Services Policies and this Section I, the terms of this Section I shall prevail.

4. Service Level Agreement

Contractor through Kronos offers the Service Level Agreement and associated SLA Credits as described in Section F-1-3. The SLA Credits are Ordering Activity’s sole and exclusive remedy in the event of any Outage. Kronos remains obligated to provide the Service as otherwise described in this Section I.

5. Data, Confidentiality, Security and Privacy

5.1 Data

5.1.1 Ordering Activity owns Customer Data. Ordering Activity is solely responsible for Customer Data, including ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Ordering Activity is solely responsible for any Claims that may arise out of or relating to Customer Data.

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

5.2 Confidentiality

Each Party will treat the Confidential Information of the other Party with the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Contractor recognizes that courts of competent jurisdiction may require
release of confidential information and that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as “confidential” by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential. To the extent allowable under the Texas Public Information Act.

5.3 Security and Privacy

5.3.1 Kronos will maintain the Controls throughout the Term.

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

5.3.3 Kronos employees will access Customer Data from the locations from which such employees work. Ordering Activity consents to Kronos’ handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Ordering Activity will ensure that Customer Data may be provided to Kronos for the purposes of providing the Service. Ordering Activity has obtained all necessary consents from individuals to enable Kronos to use the Customer Data to provide the Service. As may be contemplated by the applicable Data Protection Laws, Ordering Activity will remain the “controller” of Customer Data and Kronos will be considered a “processor” of Customer Data.

5.3.4 Contractor through Kronos will notify Ordering Activity in accordance with Applicable Law upon becoming aware of an unauthorized access of Customer Data. To the extent reasonably possible, such a notification will include, at a minimum (i) a description of the breach, (ii) the information that may have been obtained as a result of the breach, and (iii) the corrective action Kronos is taking in response to the breach.

6. Warranty

Contractor warrants that the Service will be provided in a professional and workmanlike manner. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE SERVICE, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If Ordering Activity informs Contractor in writing that there is a material deficiency in the Service which is making this warranty untrue, Contractor will use its reasonable commercial efforts to correct the non-conforming Service at no additional charge, and if Contractor is unable to do so within a reasonable period of time, Ordering Activity may terminate the then remaining Term of the Order Form under Section I of this Section F-1, which will be Ordering Activity’s sole and exclusive remedy. Ordering Activity agrees to provide Contractor with reasonable information and assistance to enable Contractor to reproduce or verify the non-conforming aspect of the Service.

7. License

7.1 Technology License

7.1.1 As part of the Service, Contractor will provide Ordering Activity access to and use of the Technology, including the Applications. Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use the Service, including the Technology, during the Term and for internal business purposes only. Ordering Activity acknowledges and agrees that the right to use the Service, including Seasonal Licenses when included on the Order Form, is limited based upon the number of Authorized Users, and Ordering Activity’s payment of the corresponding PEPM Fees. Ordering Activity agrees to use the Applications only for the number of employees stated on the total of all Order Forms for the applicable Applications. Ordering Activity agrees not to use any other Application nor increase the number of employees using an Application unless Ordering Activity enters into an additional Order Form that will permit the Ordering Activity to have additional Authorized Users.

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

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

8.2 Access to the Service includes access to the Marketplace feature (the “Marketplace”). The Marketplace allows Ordering Activity to electronically enter into agreements and make transactions such as orders, contracts, statements of work, and notices of cancellation. Ordering Activity shall configure the Marketplace to disable use by its Authorized Users if it does not agree to enter into electronic transactions or agreements. Ordering Activity acknowledges that if it does not disable use of the Marketplace it agrees to be bound by agreements and transactions electronically entered into through the Service.

9. Suspension

9.1 Contractor through Kronos reserves the right to temporarily suspend the Service if in Kronos’s reasonable judgment, the Service or any component thereof are about to suffer a significant threat to security or functionality.

9.2 Ordering Activity 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 the AUP. Contractor through Kronos and its third-party cloud service provider reserve the right to review Ordering Activity’s use of the Service and Customer Data for AUP compliance and enforcement. Ordering Activity acknowledges that failure to comply with the AUP may result in a significant threat to the security or functionality of the Services. If Contractor through Kronos discovers an AUP violation, Contractor through Kronos may temporarily suspend Ordering Activity’s use of the Service immediately without notice.

Article 10. Termination shall be handled in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-4315.

10.1 Effects of Termination
If the Section I is terminated for any reason:

a. All Fees will be paid by Ordering Activity for amounts owed through the effective date of termination.

b. Any Fees paid by Ordering Activity for the Service not rendered prior to the effective date of termination will be refunded to Ordering Activity.

c. Ordering Activity’s right to use the Service will end as of the effective date of termination. Notwithstanding such termination, Ordering Activity will have thirty (30) days after the effective date of termination to access the Service for purposes of retrieving Customer Data through tools provided by Contractor through Kronos that will enable Ordering Activity to so extract Customer Data. If Ordering Activity requires a longer period of access to the Service after termination to retrieve Customer Data, such access will be subject to additional Fees. Extended access and use of the Services will be subject to the terms of this Section I.

d. Contractor through Kronos will delete Customer Data after Ordering Activity’s rights to access the Service and retrieve Customer Data have ended. Contractor through Kronos will delete Customer Data in a series of steps and in accordance with Kronos’ standard business practices for destruction of Customer Data and system backups. Final deletion of Customer Data will be completed when the last backup that contained Customer Data is overwritten.

e. Contractor and Ordering Activity will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Section I.

f. Provisions in this Section I which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination will so survive.

11. Extent and Limitations of Liability

11.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION I OF THIS SECTION F-1, THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR CONTRACTOR’S SUPPLIERS TO ORDERING ACTIVITY OR TO ANY THIRD PARTY IN CONNECTION WITH THIS SECTION I WILL BE LIMITED TO ACTUAL AND DIRECT DAMAGES
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PROVEN BY ORDERING ACTIVITY, SUCH DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

11.2 NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES. NEITHER PARTY WILL BE LIABLE FOR THE COST OF ACQUIRING SUBSTITUTE OR REPLACEMENT SERVICES. NEITHER PARTY WILL BE LIABLE FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICE OR THIS SECTION I. THESE LIMITATIONS APPLY FOR ANY REASON, REGARDLESS OF ANY LEGAL THEORY AND FOR WHATEVER REASON LIABILITY IS ASSERTED.

11.3 THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM KRONOS; NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

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

13. Feedback
From time to time, Ordering Activity may provide Feedback. Kronos has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Ordering Activity hereby grants Kronos a royalty-free, fully paid up, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, distribute, transmit, display, perform, create derivative works of and otherwise fully exercise and commercially exploit the Feedback for any purpose in connection with Kronos’ business without any compensation to Ordering Activity or any other restriction or obligation, whether based on intellectual property right claim or otherwise. Any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Section I limits Kronos’ right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

14. General

14.1 Ordering Activity and Contractor shall not assign the rights to use the Services without the prior written consent of the other Party and any purported assignment, without such consent shall be void.

(end of Section F-2)
The following terms and conditions supplement the terms and conditions of Exhibit A and govern the purchase and sale, or rental of, Equipment and the related support services, as applicable.

1. Purchase and Sale of Equipment
When indicated on the applicable Order Form as Purchased Equipment, Contractor through Kronos sells to Ordering Activity the Equipment listed on that Order Form for the price stated on that Order Form. Payment and delivery terms are as stated on the Order Form. Contractor will invoice Ordering Activity for purchased Equipment upon shipment of the Equipment.

2. Equipment Rentals
The following terms apply only to Equipment Ordering Activity rents from Contractor when indicated on the applicable Order Form as Rental Equipment:

2.1 Rental Term and Warranty. The term of the Equipment rental and the warranty for such Equipment shall run coterminously with the Term of the Service.

2.2 Insurance. Ordering Activity 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 during the Term. No loss, theft or damage after shipment of the Equipment to Ordering Activity shall relieve Ordering Activity from Ordering Activity’s obligations hereunder.

2.3 Location/Replacement. Ordering Activity shall not make any alterations or remove the Equipment from the place of original installation without Kronos’ prior written consent. Kronos shall, subject to the Ordering Activity’s security requirements pertaining to security clearances and access to premises, computer systems, and data, have the right to enter Ordering Activity’s premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Ordering Activity, to replace any Equipment with newer or alternative technology as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

2.4 Ownership. All Equipment shall remain the property of Contractor through 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. Ordering Activity shall not sell or otherwise encumber the Equipment. Ordering Activity shall furnish any assurances, written or otherwise, reasonably requested by Contractor to give full effect to the intent of terms of this paragraph.

2.5 Equipment Support. Contractor shall provide to Ordering Activity the Depot Exchange Equipment Support Services described below, the Fees for which are included in the Rental Fees for the Equipment.

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Order Form, for any reason, Ordering Activity shall return, within thirty (30) days of the effective date of termination and at Ordering Activity’s expense, the Equipment. Equipment will be returned to Contractor in the same condition as and when received, reasonable wear and tear excepted.

3. Warranty
Contractor warrants that all Kronos Equipment shall be free from defects in materials and workmanship, for a period of ninety (90) days from delivery. In the event of a breach of this warranty, Ordering Activity’s exclusive remedy shall be Kronos’ repair or replacement of the deficient Equipment, at Kronos’ option, provided that Ordering Activity’s use, installation and maintenance thereof have conformed to the Documentation. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

a. damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

b. failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the Documentation; or

c. malfunctions resulting from the use of badges or supplies not approved by Kronos.
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4. Firmware
Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity’s Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

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

6. Equipment Support
Contractor and Ordering Activity hereby agree that Contractor through Kronos shall provide Equipment Support Services for Ordering Activity's Kronos Equipment (referred to below as "Product(s)") if such Equipment Support Services are specified on an Order Form to and from locations within the United States and Puerto Rico.

6.1 Term
Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth in Section 3 of this Section I. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), if agreed upon by the issuance of a new order and Contractor accepting such order.

6.2 Payment
Ordering Activity agrees that all Products of the same type that are owned by the Ordering Activity, including without limitation Ordering Activity's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Ordering Activity agrees that if Ordering Activity purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Ordering Activity under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

6.3. Depot Support Service

6.3.1 Upon the failure of an installed Product, Ordering Activity shall notify Contractor through Kronos of such failure and Kronos will provide remote support in an attempt to resolve the problem. Those failures determined by Kronos to be Product related shall be dispatched to a Kronos Depot Repair Center and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Product if Ordering Activity is to return the failed Product to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies which may be found herein under Section G of Section F-1.

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

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

6.3.4 Device Software Updates Only: Ordering Activity shall be entitled to receive:
   a. Service packs for the Product (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos’ customer portal; and
   b. Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Products.

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

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

6.6 Responsibilities of Ordering Activity
Ordering Activity agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Ordering Activity. In addition, Ordering Activity agrees to:
   a. Maintain the Products in an environment conforming to Kronos’ published specifications for such Products;
   b. De-install all failed Products and install all replacement Products in accordance with Kronos’ published installation guidelines;
   c. Ensure that the Product(s) are returned to Kronos properly packaged; and
   d. Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Ordering Activity may only return the specific Product authorized by Kronos when issuing the RMA.

6.7 Support Exclusions
6.7.1 Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:
   a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
   b. Ordering Activity’s failure to continually provide a suitable installation environment (as indicated in Kronos’ published installation guidelines) including, but not limited to, adequate electrical power;
   c. Ordering Activity’s improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos’ published specifications;
   d. Ordering Activity’s use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
   e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
   f. Ordering Activity’s repair, attempted repair or modification of the Products.

6.7.2 Professional Services provided by Contractor through Kronos in connection with the installation of any software or firmware upgrades, if available, and if requested by Ordering Activity, are not covered by Equipment Support Services. Firmware (including equipment service packs), which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos’ customer website provided Ordering Activity is maintaining the Product under an annual Equipment Support Services plan with Kronos.

7. Warranty
Contractor warrants that all repairs performed under this Section I shall be performed in a professional and competent manner. ALL OTHER WARRANTIES FOR THE EQUIPMENT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.
8. Limitation of Remedies

To the extent permitted by law, the remedy of Ordering Activity and liability of Contractor shall be replacement of the repaired Product.

Section F-1-2: Service Level Agreement

Service Level Agreement: Kronos offers the Service Level Agreement and associated SLA Credits as described in this Section F-1-2. This Section F-1-2 does not apply to the Boomi development environment described in Exhibit E.

Availability: The production environment of the Service will maintain 99.75% Availability. SLA Credits become available starting the month after Ordering Activity’s written “go live” confirmation is provided to Kronos.

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

“Outage” means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the production environment for the Service for reasons other than an Excluded Event.

Excluded Event” means any event that causes unavailability to the Service due to (a) the acts or omissions of Ordering Activity, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Ordering Activity; (d) any inconsistencies or changes in Ordering Activity’s source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events as governed by FAR 52.212-4(f); (g) expected downtime during the Maintenance Periods described below; (h) any temporary suspension of the Service in accordance with the terms of this Section I; (i) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (j) using an Application in a manner inconsistent with the Documentation for such Application.

“Maintenance Period” means scheduled maintenance periods established by Kronos to maintain and update the Services, when downtime may be necessary. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously maintains the production environment on a 24x7 basis to reduce disruptions. The current Maintenance Period is each Saturday, 12:00 AM - 4:00 AM (US) EST.

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

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

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

“Total Minutes Not Available (TM)” means the total number of minutes during the calendar month that the Service is unavailable as the result of an Outage.

Reporting and Claims Process

Kronos will provide Ordering Activity with Availability metrics on a monthly basis for each prior calendar month. Ordering Activity must request the applicable SLA Credits by written notice to Kronos within sixty (60) days of receipt of the metrics. Ordering Activity waives any right to SLA Credits not requested within this time period. All performance calculations and applicable SLA Credits are based on Kronos’ records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.
Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating SLA Credits.

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

(end of Attachment F1-1)
## SECTION F EXHIBIT B

### Appendix E

**DIR Contract No. DIR-TSO-4315**

### Exhibit B: Workforce Dimensions Cloud Guidelines

<table>
<thead>
<tr>
<th>Solution Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tenants included</strong></td>
</tr>
<tr>
<td>One standard production tenant</td>
</tr>
<tr>
<td>One partial copy non-production tenant limited to 18 months of data</td>
</tr>
<tr>
<td><strong>Additional tenants</strong></td>
</tr>
<tr>
<td>Additional partial copy tenants available for purchase on an annual basis</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Connectivity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SFTP accounts</strong></td>
</tr>
<tr>
<td>The Kronos cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punchers, drivers, and more — to and from the Kronos cloud in support of Kronos’ integrations. The service includes two SFTP managed service accounts that customers may use to automate their integrations with the Kronos cloud. All managed service account logins use public key authentication to secure files in transit. Transfers of files up to 100MB are supported. Customers may also purchase additional managed service accounts. User accounts for individual (named) customer login are not supported by the SFTP service.</td>
</tr>
</tbody>
</table>

| **MPLS/Site-to-cloud (optional)**                        |
| Customers choosing to utilize MPLS are required to use connections offered by Google Cloud interconnect service providers and will pay the service provider directly. Kronos will assist in provisioning of the link. |

| **Server-initiated device (optional)**                    |
| Supported per Documentation (includes two VPN connections) |

<table>
<thead>
<tr>
<th>Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Storage</strong></td>
</tr>
<tr>
<td>Storage will be aligned with the number of employees using Workforce Dimensions and the number of software modules being deployed. Storage is covered by the per-employee-per-month fees.</td>
</tr>
<tr>
<td><strong>Secure file transfer limits</strong></td>
</tr>
<tr>
<td>Integration with Kronos Workforce Dimensions using the Kronos Cloud SFTP service is subject to the following limits:</td>
</tr>
<tr>
<td>- 20 active concurrent sessions per SFTP account</td>
</tr>
<tr>
<td>- File size transferred per SFTP session not to exceed 100MB</td>
</tr>
<tr>
<td>- Storage quota of 1GB per SFTP account</td>
</tr>
<tr>
<td><strong>Key performance indicators (KPIs)</strong></td>
</tr>
<tr>
<td>KPIs can be used to monitor and control business targets and thresholds. Many KPIs are delivered to the customer to track common workforce metrics such as overtime and labor costs. The customer has the option to build additional organization-specific KPIs using the KPI Builder. The number of active KPIs used with Workforce Dimensions applications will be limited to 200 per customer. Additional KPIs may be purchased.</td>
</tr>
<tr>
<td><strong>API usage</strong></td>
</tr>
<tr>
<td>Data can be accessed through APIs. Kronos reserves the right to limit usage of APIs to preserve the integrity of the system and to charge additional fees for usage of the APIs beyond “normal levels” as required for integrations with other systems. The expected volume of API calls may be exceeded by building additional applications using APIs or routinely extracting large volumes of data to support an external data warehouse.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Policies</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Data refresh</strong></td>
</tr>
<tr>
<td>Customer can request that a copy of production tenant be moved to its non-production tenant once per week — up to the limit of data allowable in the non-production tenant.</td>
</tr>
</tbody>
</table>
## Appendix E

**DIR Contract No. DIR-TSO-4315**

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kronos application updates</td>
<td>Maintenance updates will be automatically applied as needed. New software releases will be automatically applied according to the release schedule published during the first month of each quarter.</td>
</tr>
<tr>
<td>Data retention</td>
<td>As part of the standard offering transactional data will be retained for 3 years in production environment and an additional 4 years in archive. After the 7 years’ customers will need to extract data that they require to keep for longer periods of time. Kronos has the right to purge the data after 7 years.</td>
</tr>
<tr>
<td>Customer termination support</td>
<td>Upon customer termination, Kronos will provide access to the service for an additional 30 days so the customer may extract data.</td>
</tr>
<tr>
<td>Security compliance</td>
<td>A SOC 2 Type 1 report will be published during the first quarter after general availability release. A SOC 2 Type 2 report will be published 12 months after general availability release.</td>
</tr>
</tbody>
</table>
| Disaster recovery | Recovery time objective: 24 hours  
Recovery point objective: 4 hours |
| Encryption | Data encryption in transit and at rest is included. |
| Service level agreement uptime | 99.75% system availability |
| Maintenance window | Four hours once a week, according to defined standard schedule: Saturday, midnight – 4:00 a.m. EST |
| Data usage | Kronos has the right to use scrubbed system data to define benchmarks, understand usage, and establish patterns. |
| Third parties | The customer may contract with a third party to configure and/or implement Workforce Dimensions applications. The customer will be responsible for creating users in the system for the third party to access the application and for maintaining the permissions those users have within the application. Dedicated service and support accounts can be accessed only by Kronos personnel or contractors employed by Kronos. |
| Legal Hold | Kronos will comply with applicable laws and regulations when responding to subpoenas and inquiries from government agencies after consultation with customers when applicable and possible. In the event that a customer is subject to a subpoena, litigation discovery request, or government inquiry directed at customer data or documents that are solely within Kronos’ control, Kronos will, at the customer’s request, make commercially reasonable efforts to provide assistance to the extent that it is technically feasible. The customer will reimburse Kronos for the costs that Kronos incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, Kronos will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, Kronos will not entertain requests to store or host legacy or archived customer data or documents for these purposes. Kronos periodically reviews all matters subject to legal hold, including data that is being retained. |
SECTION F Exhibit C: Customer Success

1. Customer Success Plans
1.1 Contractor through Kronos offers the following Customer Success Plans:
   a. Standard (included in Ordering Activity’s PEPM Fee)
   b. Premium (available for an additional Fee, minimum annual spend may be required for certain services)
   c. Premium Plus (available for an additional Fee, minimum annual spend may be required for certain services)

1.2 As part of the Standard Plan, Kronos will provide:
   a. 24/7 support for infrastructure outages, with always-on maintenance for Application Availability and Outages;
   b. Kronos Community access: Self-solve issues, access Knowledgebase articles, and open support cases;
   c. Local Time Zone Support: 8-5 callback support and two-hour email response time to cases Monday to Friday;
   d. In-Context Support: Screen-specific, built-in assistance within the Applications;
   e. KnowledgeMap™ Learning Portal: Access to self-paced eLearning and webinars;
   f. Access to Customer Success;
   g. Customer Health Monitoring to proactively identify and address potential issues based on Kronos’ evaluation of customer experience metrics; and,
   h. Success Reporting: Automated success dashboard to provide usage data and success tips.

1.3 Each Plan provides different services and different service coverage periods. The current services of each Plan are described in Attachment C-1. The current services of the corresponding Customer Success Programs – Community, Guided and Signature - are described in Attachment C-2.

1.4 Technical Account Manager. A Technical Account Manager (TAM) is included in Premium Plus. A TAM may be added to the Premium Plan for an additional Fee and requires a minimum annual spend. TAMs are senior Technical Support Engineers or former Kronos Application Consultants with industry specific Kronos product knowledge.

1.5 The Kronos policies which apply to all Customer Success Plans are set forth attachment C-4.

1 All additional fees will be in accordance with the Appendix C Pricing Index of DIR Contract No. DIR-TSO-4315.
## Customer Success Plans

<table>
<thead>
<tr>
<th>Service Included</th>
<th>Standard</th>
<th>Premium</th>
<th>Premium Plus</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Technical Account Manager</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Includes Escalation Manager</td>
<td></td>
<td></td>
<td>Included</td>
</tr>
<tr>
<td><strong>Help Desk Support</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Direct User/Locations Support</strong></td>
<td></td>
<td></td>
<td>Fee in addition to Premium 24x7</td>
</tr>
<tr>
<td><strong>Community Success</strong></td>
<td>Included</td>
<td>Included</td>
<td></td>
</tr>
<tr>
<td><strong>Guided Success</strong></td>
<td></td>
<td>Requires minimum spend</td>
<td></td>
</tr>
<tr>
<td><strong>Signature Success</strong></td>
<td></td>
<td></td>
<td>Included</td>
</tr>
</tbody>
</table>

---

## Service Included:

<table>
<thead>
<tr>
<th>Service Included</th>
<th>Standard</th>
<th>Premium</th>
<th>Premium Plus</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TAM Resources:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Technical Account Manager</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Includes Escalation Manager</td>
<td></td>
<td></td>
<td>Included</td>
</tr>
<tr>
<td><strong>Help Desk Support</strong></td>
<td></td>
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<tr>
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<tr>
<td><strong>Community Success</strong></td>
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<td>Included</td>
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</tr>
<tr>
<td><strong>Guided Success</strong></td>
<td></td>
<td>Requires minimum spend</td>
<td></td>
</tr>
<tr>
<td><strong>Signature Success</strong></td>
<td></td>
<td></td>
<td>Included</td>
</tr>
</tbody>
</table>
## SECTION F Attachment C-2

### Attachment C-2: Customer Success Programs

<table>
<thead>
<tr>
<th></th>
<th>Community</th>
<th>Guided</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Named Customer Success Manager</strong></td>
<td>Team</td>
<td>Yes – 1:25</td>
<td>Yes – 1:8</td>
</tr>
<tr>
<td><strong>Customer Onboarding Experience</strong></td>
<td>Community</td>
<td>Remote</td>
<td>In-Person</td>
</tr>
<tr>
<td><strong>Success Reporting</strong></td>
<td>Dashboard Report - Annually</td>
<td>360 Report - Semi Annually</td>
<td>Insights Report - Quarterly</td>
</tr>
<tr>
<td><strong>Product Adoption Guidance</strong></td>
<td>Campaigns</td>
<td>Direct</td>
<td>Direct</td>
</tr>
<tr>
<td><strong>Customer Happiness Monitoring</strong></td>
<td>Trends/Campaigns</td>
<td>Direct</td>
<td>Direct</td>
</tr>
<tr>
<td><strong>Customized Success Paths with Updates</strong></td>
<td>Annually</td>
<td>Quarterly</td>
<td></td>
</tr>
<tr>
<td><strong>Live Check in Meetings</strong></td>
<td>-</td>
<td>Quarterly</td>
<td>Monthly</td>
</tr>
<tr>
<td><strong>Executive Business Reviews</strong></td>
<td>-</td>
<td>Annually – Remote</td>
<td>Quarterly – In Person</td>
</tr>
</tbody>
</table>
## Advisory Support Offerings

### Support Plus

<table>
<thead>
<tr>
<th>Description</th>
<th>Delivery Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluate Application beyond a specific fix. Focus on not only issue identified but overall health of the application when engaging support.</td>
<td>Delivered as part of each Support case by Support Eng.</td>
</tr>
</tbody>
</table>
| Identify known issues and solutions:  
  • Quarterly review of PARs fixed/assessment of impact | • Delivered as part of each Support case for area in question  
  • Delivered quarterly in a proactive fashion independent of Support calls |
| Implementation of new functionality (minor feature releases):  
  • Review minor features released in product (assumes CSM will cover major product features with product)  
  • No licensed feature additions | Delivered based on release cycles |

### Best Practices Audit

<table>
<thead>
<tr>
<th>Description</th>
<th>Delivery Considerations</th>
</tr>
</thead>
</table>
| **App Review and Audit (Quarterly):**  
  • Audit of Application and use of Kronos recommended best practices  
  • Evaluation of Application Error conditions and impact on System use  
  - Review error logs with an eye toward trends. Proactive identification of configuration changes/par's that may address identified trends or issues  
  • Evaluate overall system performance and tune as needed (Need tools from engineering to provide this) | Delivered Quarterly with focus on the Application best practices only. |
| **Timeclock review and audit (Quarterly):**  
  • Flash versions on Kronos Hardware  
  • Review communication error messages  
  - Review error logs with an eye toward trends. Proactive identification of configuration changes/par's that may address identified trends or issues | Delivered Quarterly |
Workforce Dimensions Support Policies

Kronos provides support services for all customer environments (Production and User Acceptance Testing (UAT)) running the Workforce Dimensions Applications. Upgrades to these environments are included in all Success plans. Configuration of new features may be subject to additional cost depending on complexity.

Support Exclusions
Support services do not include service to the Applications resulting from, or associated with:
1. Failure to use the Applications in accordance with Kronos' published specifications; or
2. Customer's end user computer or operating system malfunctions, including browser and internet connection; or
3. Services required for application programs or conversions from products or software not supplied by Kronos.

Service Coverage Period
Kronos provides support for the Workforce Dimensions Infrastructure 24 hours a day, seven days a week, 365 days a year. Support coverage hours for the Application for use, usability and “how to” questions depend on the Success Plan purchased with the Service.

<table>
<thead>
<tr>
<th>Success Plans</th>
<th>Standard</th>
<th>Premium</th>
<th>Premium Plus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Time Zone Support</td>
<td>Electronic submission w/callback Support 8:00 AM – 5:00 PM Monday to Friday*</td>
<td>Phone/Electronic Support 8:00 AM – 8:00 PM Monday to Friday*</td>
<td>24 Hour Live Phone/Electronic Support 7 days per week</td>
</tr>
</tbody>
</table>

* Excluding Kronos holidays

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

High Priority: A critical customer issue with no available workaround where the Applications cannot be accessed, or where the Applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll, such as:
- Cloud outage
- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical function within the Applications such as scheduling

Medium Priority: A serious customer issue which impacts ability to utilize the application effectively such as:
- Intermittent or inconsistent functionality results or data accuracy - accrual balances not matching pay codes, but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- Application performance is inconsistent or fluctuates

Low Priority: Non-critical problem generally entailing use and usability issues or "how to" questions such as:
- How do I set up a holiday pay rule?
- How do I run a report?
Response Time
Response time shall mean the number of hours from the time the case priority is set by the Kronos Support Center until a Kronos technical representative contacts the customer to begin service. Kronos utilizes a priority-based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

<table>
<thead>
<tr>
<th>Success Plans</th>
<th>Standard</th>
<th>Premium</th>
<th>Premium Plus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priority</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>2 hours</td>
<td>2 hours</td>
<td>1 hour</td>
</tr>
<tr>
<td>Medium</td>
<td>4 hours</td>
<td>4 hours</td>
<td>4 hours</td>
</tr>
<tr>
<td>Low</td>
<td>8 hours</td>
<td>8 hours</td>
<td>8 hours</td>
</tr>
</tbody>
</table>

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

Technical Escalation
Kronos' case resolution process is a team-based approach structured around specific features within the Application suite and staffed by Kronos Support Engineers covering the full spectrum of skill sets and technical expertise. The teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

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

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

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

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

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

This Acceptable Use Policy (this "Policy") describes prohibited uses of the Service. The examples described in this Policy are not exhaustive. If Ordering Activity violates the Policy or authorizes or helps others to do so, Contractor may temporarily suspend use of the Service until the violation is corrected, or submit a claim to the contracting office under the Contract Disputes Act to terminate the Order Form for cause in accordance with the terms of this Section I.

No Illegal, Harmful, or Offensive Use or Content

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

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

No Security Violations

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

- **Unauthorized Access.** Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System. Ordering Activity will not perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan on any System.
- **Interception.** Monitoring of data or traffic on a System without permission.
- **Falsification of Origin.** Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. This prohibition does not include the use of aliases or anonymous remailers.
- **No Use of Robots.** Ordering Activity will not use any tool designed to automatically emulate the actions of a human user (e.g., robots)

No Network Abuse

- **Ordering Activity** may not make network connections to any users, hosts, or networks unless Ordering Activity has permission to communicate with them. Prohibited activities include:
  - Monitoring or Crawling. Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
  - Denial of Service (DoS). Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.
  - Intentional Interference. Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
  - Operation of Certain Network Services. Operating network services like open proxies, open mail relays, or open recursive domain name servers.
  - Avoiding System Restrictions. Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.
Appendix E
DIR Contract No. DIR-TSO-4315

No E-Mail or Other Message Abuse

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

Monitoring and Enforcement
Contractor through Kronos reserves the right, but does not assume the obligation, to investigate any violation of this Policy or misuse of the Service. Contractor through Kronos may: • investigate violations of this Policy or misuse of the Service; or • temporarily remove, disable access to, or modify any content or resource that violates this Policy and submit a claim to the contracting officer under the Contract Disputes Act to permanently remove, disable, or modify the content. Contractor through Kronos may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Such reporting may include disclosing appropriate customer information. Contractor through Kronos also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Reporting of Violations of this Policy
If Ordering Activity becomes aware of any violation of this Policy, Ordering Activity will immediately notify Contractor and provide Contractor with assistance, as requested, to stop or remedy the violation.
Section F - Exhibit E: AtomSphere Service and Boomi Software

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

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

a. Run-Time environment: A run time environment in the Kronos Cloud where the integration created by with the Boomi AtomSphere Service runs. This environment is described in Exhibit B.

b. Development environment: A development environment in the Boomi Cloud where the design and development tools exist to build the integrations. This environment is referred to as a Hosted Environment in the hyperlink below.

The Boomi AtomSphere Service is subject to the additional terms and conditions set forth at: www.kronos.com/workforce-dimensions/agreement/attachment-e1. These additional terms and conditions apply to all integrations to and from the Service using the Boomi AtomSphere Service, whether done by Ordering Activity or by Kronos. Except as provided in these additional terms and conditions, all terms and conditions of this Section I related to the Service apply to the Boomi AtomSphere Service. Upon termination, Ordering Activity’s rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.
Appendix E
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Section F - Attachment E-1
Boomi AtomSphere Service and Boomi Software Flow Downs

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

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

(2) Proprietary Rights shall be accordance with DIR Contract DIR-TSO-4315 Appendix A, Terms and Conditions, Section 5 Intellectual Property. End-Customer understands and agrees that (i) the AtomSphere Service or the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Dell, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the Products, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant End-Customer any rights to Dell’s trademarks or service marks, and (v) Dell reserves any and all rights, implied or otherwise, which are not expressly granted to End-Customer in this Agreement. In the event of conflict, the DIR Contract No. DIR-TSO-4315 will have precedence.

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

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

Except as permitted herein or to the extent required by Privacy Laws or legal process, Dell shall not disclose Protected Data to any third party for any reason. Dell shall implement appropriate technical and organizational measures to prevent unauthorized disclosure of or access to Protected Data by third parties and shall only store and process Protected Data as required to fulfill its obligations under this Agreement and any applicable Orders. Dell shall make reasonable efforts to comply with End-Customer's written instructions with respect to the Protected Data; however, Dell shall have no liability to End-Customer for any breach of this Section resulting from Dell's acts or omissions in accordance with any such instructions. Dell shall promptly notify End-Customer of any disclosure of or access to the Protected Data by a third party in breach of this Section and shall cooperate with End-Customer to reasonably remediate the effects of such disclosure or access. Dell further affirms to End-Customer that Boomi, Inc. currently abides by the safe harbor framework as set forth by the U.S. Department of Commerce regarding the collection, use and retention of data from the European Union. End-Customer hereby (i) represents that it has the right to send the Protected Data to Dell, (ii) consents for Dell to store and use the Protected Data worldwide for the sole purpose of performing its obligations under this Agreement and any applicable Orders, (iii) agrees that the Protected Data may be accessed and used by Dell and its Representatives worldwide as may be needed to support Dell's standard business operations, and (iv) agrees that Protected Data consisting of End-Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Dell's third party service providers as part of Dell's services improvement processes.
(5) Infringement. Dell will at its own expense defend or settle any claim, suit, action, or proceeding brought against End-Customer by a third party to the extent it is based on an allegation that the Boomi Software directly infringes any patent, copyright, trademark, or other proprietary right enforceable in the country in which the Boomi Software is delivered to End-Customer, or misappropriates a trade secret in such country (a "Claim"). Additionally, Dell shall pay any judgments finally awarded against End-Customer under a Claim or any amounts assessed against End-Customer in any settlements of a Claim, and reasonable administrative costs or expenses, including without limitation reasonable attorneys’ fees, necessarily incurred by End-Customer in responding to the Claim. Dell’s obligations under this Section are conditioned upon End-Customer (i) giving prompt written notice of the Claim to Dell; (ii) permitting Dell to retain control of the investigation, defense or settlement of the Claim, and (iii) providing Dell with such cooperation and assistance as Dell may reasonably request from time to time in connection with the investigation, defense or settlement of the Claim. Dell shall have no obligation hereunder to defend End-Customer against any Claim (a) resulting from use of the Boomi Software other than as authorized in this Agreement, (b) resulting from a modification of the Boomi Software other than by Dell, or (c) based on End-Customer’s use of the Boomi Software after Dell recommends discontinuation because of possible or actual infringement, (d) based on End-Customer’s use of a superseded or altered release of Boomi Software if the infringement would have been avoided by use of a current or unaltered release of the Boomi Software made available to End-Customer, or (e) to the extent the Claim arises from or is based on the use of the Boomi Software with other products, services, or data not supplied by Dell if the infringement would not have occurred but for such use. If End-Customer’s use of the Boomi Software is enjoined as a result of a Claim, Dell shall, at its expense and option either (1) obtain for End-Customer the right to continue using the Boomi Software, (2) replace the Boomi Software with a functionally equivalent non-infringing product, (3) modify the Boomi Software so that it is non-infringing, or (4) terminate the License for the infringing Boomi Software and discontinue End-Customer’s right to access and use the infringing Boomi Software and refund the unused pro-rated portion of any fees pre-paid by End-Customer for the AtomSphere Service affected by the removal of the infringing Boomi Software. This Section states the entire liability of Dell, and End-Customer’s sole and exclusive remedy, with respect to a Claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.

(6) Warranty. Dell warrants that the Boomi Software and AtomSphere Service will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with Boomi Software and AtomSphere Service written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING SENTENCE, THERE ARE NO WARRANTIES OR REMEDIES PROVIDED TO CUSTOMER BY DELL HEREBEUHAND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NONINFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. DELL DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.

(9) High Risk Disclaimer. END-CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK OR HAZARDOUS ENVIRONMENT, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR ANY OTHER APPLICATION WHERE THE FAILURE OR MALFUNCTION OF ANY PRODUCT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, SEVERE PROPERTY DAMAGE OR SEVERE ENVIRONMENTAL HARM (A “HIGH RISK ENVIRONMENT”). ACCORDINGLY, (I) END-CUSTOMER SHOULD NOT USE THE PRODUCTS IN A HIGH RISK ENVIRONMENT, (II) ANY USE OF THE PRODUCTS BY CUSTOMER IN A HIGH RISK ENVIRONMENT IS AT CUSTOMER’S OWN RISK, (III) DELL, ITS AFFILIATES AND SUPPLIERS SHALL NOT BE LIABLE TO END-CUSTOMER IN ANY WAY FOR USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT, AND (IV) DELL MAKES NO WARRANTIES OR ASSURANCES, EXPRESS OR IMPLIED, REGARDING USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT.
Appendix E
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(7) Export. End-Customer acknowledges that the Boomi Software and AtomSphere Service are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other applicable foreign agencies (the "Export Controls") and agrees to abide by the Export Controls. End-Customer hereby agrees to use the Boomi Software and AtomSphere Service in accordance with the Export Controls, and shall not export, re-export, sell, lease or otherwise transfer the Boomi Software and AtomSphere Service or any copy, portion or direct product of the foregoing in violation of the Export Controls. End-Customer is solely responsible for obtaining all necessary licenses or authorizations relating to the export, re-export, sale, lease or transfer of the Boomi Software and AtomSphere Service and for ensuring compliance with the requirements of such licenses or authorizations. End-Customer hereby (i) represents that End-Customer is not an entity or person to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls; and (ii) agrees that it shall not export, re-export or otherwise transfer the Boomi Software and AtomSphere Service to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons. Except as may be prohibited by applicable law, End-Customer shall, at its expense, defend Dell and its Affiliates from any third party claim or action arising out of any inaccurate representation made by End-Customer regarding the existence of an export license, End-Customer’s failure to provide information to Dell to obtain an export license or any allegation made against Dell due to End-Customer’s violation or alleged violation of the Export Controls (an “Export Claim”) and shall pay any judgments or settlements reached in connection with the Export Claim as well as Dell’s costs of responding to the Export Claim.

(8) Hosted Environment.

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

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

(b) Conduct. In connection with the use of the Hosted Environment and the AtomSphere Service, End-Customer may not (i) attempt to use or gain unauthorized access to Dell’s or to any third-party’s networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials; (iv) attempt to probe, scan or test the vulnerability of the Boomi Software, the Hosted Environment, or a system, account or network of Dell or any of Dell’s End-Customers or suppliers; (v) interfere or attempt to interfere with service to any user, host or network; (vi) engage in fraudulent, offensive or illegal activity of any nature or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third-party; (vii) transmit unsolicited bulk or commercial messages; (viii) intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (ix) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Boomi Software (except for tools with safety and security functions); or (x) restrict, inhibit, interfere with or otherwise disrupt or cause a performance degradation to any Dell (or Dell supplier) facilities used to provide the Hosted Environment. End-Customer shall cooperate with Dell’s reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.
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(c) Suspension. Dell may temporarily suspend End-Customer’s use of Boomi Software and the AtomSphere Service
(a) if so required by law enforcement or legal process, (b) in the event of an imminent security risk to Dell or its End-
Customers, or (c) if continued use would subject Dell to material liability. Dell shall make commercially reasonable
efforts under the circumstances to provide as much prior notice as possible to End-Customer of any such suspension.

(9) Limitation of Liability. EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "RESTRICTIONS", "CONFIDENTIAL
INFORMATION” SECTIONS OF THIS AGREEMENT, (B) AMOUNTS CONTAINED IN JUDGMENTS OR
SETTLEMENTS WHICH DELL IS LIABLE TO PAY ON BEHALF OF END-CUSTOMER UNDER THE
"INFRINGEMENT" SECTION OF THIS AGREEMENT AND CUSTOMER IS LIABLE TO PAY ON BEHALF OF DELL
UNDER THE "CONDUCT" OR "EXPORT" SECTIONS OF THIS AGREEMENT, OR (C) ANY LIABILITY TO THE
EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, IN NO EVENT
SHALL END-CUSTOMER, KRONOS, KRONOS’ AFFILIATES OR RESELLERS, DELL, DELL’S AFFILIATES OR
SUPPLIERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE
OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED
PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF
ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING,
WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES
AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF
STATUTORY DUTY, OR OTHERWISE. The foregoing limitation of liability shall not apply to (1) personal bodily injury
or death resulting from Licensor’s gross negligence; (2) for fraud; or (3) for any other matter for which liability cannot
be excluded by law.

EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "LICENSE," "RESTRICTIONS," OR "CONFIDENTIAL
INFORMATION” SECTIONS OF THIS AGREEMENT, OR ANY OTHER VIOLATION OF THE OTHER PARTY’S
INTELLECTUAL PROPERTY RIGHTS; (B) DELL’S EXPRESS OBLIGATIONS UNDER THE "INFRINGEMENT"
SECTION OF THIS AGREEMENT AND END-CUSTOMER’S EXPRESS OBLIGATIONS UNDER THE "CONDUCT"
AND "EXPORT" SECTIONS OF THIS AGREEMENT; (C) DELL BOOMI’S COSTS OF COLLECTING DELINQUENT
AMOUNTS THAT ARE NOT SUBJECT TO A GOOD FAITH DISPUTE; OR (D) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, THE MAXIMUM
AGGREGATE AND CUMULATIVE LIABILITY OF END-CUSTOMER, KRONOS, KRONOS’ AFFILIATES OR
RESELLERS, DELL, DELL’S AFFILIATES AND SUPPLIERS UNDER THIS AGREEMENT, WHETHER ARISING IN
OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR
OTHERWISE, SHALL NOT EXCEED THE AMOUNT THAT IS THREE TIMES THE FEES PAID AND/OR OWED (AS
APPLICABLE) BY END-CUSTOMER TO DELL BOOMI DURING THE PRECEDING TWELVE (12) MONTHS, UP TO
A MAXIMUM OF US$1,000,000. THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED
ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL PROVIDING PRODUCTS
AND SERVICES TO END-CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE
FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED
OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

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

In all cases where there is a conflict between the terms of DIR Contract DIR-TSO-4315 and any other terms provided
herein, the terms of DIR-TSO-4315 will have precedence.

(end of Section F-2)